Report on the

BOARD OF PHARMACY

Birmingham, Alabama

Department of Examiners of Public Accounts

50 North Ripley Street, Room 3201
P.O. Box 302251
Montgomery, Alabama 36130-2251

29-S-19

State of Alabama
Department of
Examiners of Public Accounts

Telephone (334) 242-9200
FAX (334) 242-1775

Ronald L. Jones
Chief Examiner

Mailing Address:
P.O. Box 302251
Montgomery, AL 36130-2251

Location:
Gordon Persons Building
50 North Ripley Street, Room 3201
Montgomery, AL 36104-3833

July 30, 2008

Representative Howard Sanderford
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Representative Sanderford:

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Board of Pharmacy** in accordance with the ***Code of Alabama 1975***, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Board of Pharmacy** in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

Ronald L. Jones
Chief Examiner

Examiner
Tony Yarbrough

TABLE OF CONTENTS

PROFILE

Purpose/Authority:

The Board of Pharmacy was created to regulate the practice of pharmacy and the management and operations of pharmacies in Alabama and provides enforcement of pharmaceutical laws in the state. The board also registers distributors, manufacturers and wholesalers of drugs. The board sets the standards for recognition of schools and colleges of pharmacy.

The board operates under authority of the ***Code of Alabama 1975***, Sections 34-23-1 through 34-23-162 (Practice of Pharmacy Act) and Sections 20-2-1 through 20-2-140 (Uniform Controlled Substances Act).

Board Characteristics:

Members and Selection	**Five (5) Members.** ***Code of Alabama 1975***, Section 34-23-90(a). **Three members** are appointed by the Governor. ***Code of Alabama 1975***, Section 34-23-90(b). • One practicing in a hospital, appointed from a list of three nominees submitted by the Alabama Society of Health System Pharmacists, or its successor organization. • One practicing in an independent pharmacy, appointed from a list of three nominees submitted by the independent pharmacist members of the Alabama Pharmacy Association, or its successor organization. • One practicing in a chain pharmacy, appointed from a list of three nominees submitted by the Alabama Pharmacy Association, or its successor organization. **Two additional members** are elected at large by all Alabama registered pharmacists, without restriction as to place of practice. The Board of Trustees of the Alabama Pharmacy Association selects a committee of five pharmacists who are members of the association to serve as a nominating committee. No one on the committee can be a candidate. The committee receives names of pharmacists actively engaged in pharmacy practice or administration, or both, from companies and individuals, and narrows the list of nominees to two names and places them on a ballot to be voted on by all Alabama pharmacists. ***Code of Alabama 1975***, Section 34-23-90(c).

Term	5 years staggered. No member can serve two full consecutive terms. ***Code of Alabama 1975***, Section 34-23-90(b)(c)(e).
Qualifications	All members of the board must be licensed pharmacists licensed in this state for a minimum of five years and actively engaged in the practice of pharmacy, pharmacy administration, or both. ***Code of Alabama 1975***, Section 34-23-90(a).
Racial Representation	No statutory requirement. No current minority race representation.
Geographical Representation	No statutory requirement.
Consumer Representation	No statutory requirement.
Other Representation	The composition of the board is to reflect the demographics of the pharmacy profession. ***Code of Alabama 1975***, Section 34-23-90(h).
Compensation	Board member compensation is set by the board. There is no statutory cap on the amount of compensation. Compensation is currently $300.00 per day while engaged in the performance of the duties of the board. Board members are also paid the same per diem and travel allowance as paid to state employees. ***Code of Alabama 1975***, Section 34-23-91.

Operations:

Administrator	Herb Bobo, R.Ph., Executive Secretary Appointed by the board. Current annual salary $125,000. Salary set by the board. ***Code of Alabama 1975***, Section 34-23-90(f)
Location	10 Inverness Center Parkway Suite 110 Birmingham, AL 35242

Examinations

Examinations are offered daily through the organization, Pearson Vue. Alabama testing locations are in Birmingham, Montgomery, Decatur and Dothan. Applicants must achieve a score of 75 on the North American Pharmacist Licensure Examination (NAPLEX) and the Multi-state Pharmacy Jurisprudence Exam (MPJE). Pass rates for 1st time applicants graduated from Alabama Schools of Pharmacy follow:

2004		2005		2006		2007	
MPJE	NAPLEX	MPJE	NAPLEX	MPJE	NAPLEX	MPJE	NAPLEX
88.79	84.31	87.39	92.40	90.75	94.00	93.50	92.27

For information regarding candidates pass/fail results by Alabama Schools of Pharmacy see the appendix.

Code of Alabama 1975, Section 34-23-51.

Renewals

The Board of Pharmacy offers online renewal. The board's office staff processes the off-line renewals and Alabama Interactive is the on-line renewal agent for the board. The pharmacist and facility classifications of licenses expire on December 31 of even numbered years, the renewal fee being due on October 31 and delinquent after December 31. Technicians are renewed during odd numbered years with the fee being due on October 31 and delinquent after December 31.

Pharmacy – ***Code of Alabama 1975***, Section 34-23-30.
Manufacturer, bottler, packer, repackager, or wholesale drug distributor – ***Code of Alabama 1975***, Section 34-23-32(d).
Pharmacist – ***Code of Alabama 1975***, Section 34-23-52(a).
Technician – ***Code of Alabama 1975***, Section 34-23-131(c).

Renewals through December 31, 2007

Description	On-line Renewals	%	Off-line Renewals	%
Pharmacists	3,924	61%	2,558	39%
Pharmacies	492	34%	964	66%
Institutional	22	13%	141	87%
Mfg.	210	18%	972	82%
Non Resident	72	16%	375	84%
Med. Oxygen Retailers	73	18%	327	82%
Technicians	6,138	74%	2,121	26%
Totals	10,931	59%	7,458	41%

<table>
<tr><td>Licensees</td><td>As of January 1, 2008

<table><tr><td>Pharmacists (Active)</td><td>6,482</td></tr><tr><td>Technicians (Active)</td><td>8,259</td></tr><tr><td>Pharmacies</td><td>1,456</td></tr><tr><td>Pharmacy (Hospital)</td><td>163</td></tr><tr><td>Non-Resident Pharmacy (1)</td><td>447</td></tr><tr><td>Mfg/Wholesalers/Distributors</td><td>1,182</td></tr><tr><td>Medical Oxygen Retailers</td><td>400</td></tr><tr><td>Total Licensees</td><td>18,389</td></tr></table>
(1) Includes mail order pharmacies.</td></tr>
<tr><td>Reciprocity</td><td>Yes, provided the applicant furnishes satisfactory proof that he or she has been licensed to practice pharmacy by examination in another state that under like conditions grants reciprocal licensure without examination to pharmacists licensed by examination in Alabama,
And
If the requirements in the state from which the applicant is reciprocating were no less than the requirements of the National Association of Boards of Pharmacy.

Each applicant for licensure by reciprocity must be personally interviewed by two or more members of the board before being granted a license and the applicant must pass a written examination on the laws governing the practice of pharmacy in Alabama.
Code of Alabama 1975, Section 34-23-51.</td></tr>
<tr><td>Continuing Education</td><td><u>Pharmacists</u> - Fifteen hours per calendar year, of which three hours must be live presentation.
Code of Alabama 1975, Section 34-23-52(b).

<u>Pharmacy technicians</u> - three hours annually, of which one hour must be live presentation.
Code of Alabama 1975, Section 34-23-131(d).</td></tr>
<tr><td>Employees</td><td>(13) At will employees (not Merit System)
(3) Private attorneys under contract</td></tr>
<tr><td>Legal Counsel</td><td>Three (3) private attorneys under contract with the board:
James S. Ward, Legal Services
Vance Alexander, Hearing Officer
Halcomb & Wertheim, P.C., Legal Services & Collection Services</td></tr>
<tr><td>Subpoena Power</td><td>Yes, persons and records.
Code of Alabama 1975, Section 34-23-92(8).</td></tr>
</table>

Internet Presence	www.albop.com – contains: • Scrolling Recent Announcements • Contact Information • C.O.R.I.P. – Description and contact information • Compliance Tips • Consumer Services – Complaint form and information • Continuing Education – Board approved C.E. events • E-Prescribing – Network listing for non-controlled prescriptions • F.A.Q's • Foreign Pharmacy Grads – Instructions • Forms, Applications & Publications • Hearings • License Verification • NAPLEX – MPJE Instructions/Results • Newsletter • Online Renewals • Pharmacy Links • Reciprocity – Instructions • Statutes/Rules
Attended Board Member Training	Rob Nelson, Board Member, Attended on 1/31/08. Tammy Rogers, Board Member, Attended on 1/31/08.

Financial Information:

Source of Funds	Licensing fees, fines and interest earned
State Treasury	No, operates from checking and savings accounts. ***Code of Alabama 1975***, Section 34-23-91
Unused Funds	Retains unexpended funds

SIGNIFICANT ITEMS & STATUS OF PRIOR FINDINGS

1. **Internal control policies and procedures are not adequate to provide assurance that data, programs, systems, and related information will be protected from unauthorized use, disclosure, modification, damage, loss or other inappropriate access by persons or programs.** Lack of adequate controls over agency data increases the risk of unauthorized use, disclosure, modification, damage, loss or inappropriate access by persons or programs. The board should develop and implement adequate and effective controls to provide reasonable assurance that data, programs, systems, and related information will be protected from unauthorized use, disclosure, modification, damage, loss or other inappropriate access by persons or programs.

2. **A review of the board's resolution of complaints revealed some weaknesses in the records.** The board's complaint database is not able to calculate the amount of time elapsed between complaint receipt and complaint resolution. This information would be helpful in evaluating and managing the complaint resolution process.

Based upon a sample of twenty-one complaint files, of which 10 were recorded as resolved, four did not contain resolution letters sent to the complainant; five did not contain resolution letters sent to the respondent; five appeared to be resolved but were not so marked in the complaint database; five contained no documentation concerning the investigation; and three, which indicated ongoing investigations, did not contain the original copy of the complaint form. According to the board's complaint database, the median number of days for resolution of the 10 resolved complaints was 88 days.

3. **The property manager does not conduct a full and complete property inventory at least annually, as required by law.** Also, two leased copy machines with purchase agreements were not included in the board's property inventory listing. These conditions unnecessarily increase the risk of loss or misuse of state-owned property.

   The ***Code of Alabama 1975*** Section 36-16-8(1) states: "Except for books, the property manager shall make a full and complete inventory of all nonconsumable personal property and certain other items of personal property deemed important or sensitive enough by the Property Inventory Control Division to be included in the inventory of state property of the value of five hundred dollars ($500) or more owned by the state and used or acquired by the department or agency. The inventory shall show the complete description, manufacturer's serial number, cost price, date of purchase, location, and custodial agency, responsible officer, or employee, and the state property control marking. A copy of the inventory shall be submitted to the Property Inventory Control Division on October 1 and April 1 of each year." The ***Code of Alabama 1975***, Section 41-1-6, allows agencies using an automated system to conduct an annual inventory and submit the results each year on October 1.

   Attorney General's Opinion 97-00035 states that property should be placed on inventory when the state has title to the property and uses the property or when the state has use and control of the property, even though it may not have title to the property.

4. **A review of legal services provided by three private attorneys revealed that the board did not submit the contracts for these services to the Contract Review Permanent Legislative Oversight Committee as required by state law and did not obtain Deputy Attorney General appointments for the attorneys, as required by the Attorney General, or obtain the governor's approval to contract the attorneys at a higher rate than the standard $85/hour, as required by the state's Attorney General.**

   The ***Code of Alabama 1975***, Section 29-2-41.2(b) states that, "Notwithstanding any other provisions of this article, all contracts for employment of an attorney to provide legal services, including contracts involving an attorney providing legal services under an agreement with the Attorney General, shall be reviewed by the committee." A memorandum dated February 4, 2003 and attached policy statement sent to all state departments, boards, agencies, commissions and institutions from Attorney General Bill Pryor's states that, "An attorney must be appointed in writing and approved [by the Attorney General's Office] before performing any work for the agency." "Legal services are to be provided at the rate of $85/hour; however, in the event that an attorney is entitled to a higher rate because of the specialty or uniqueness of the situation, arrangements must be made with the Governor's

Legal Advisor to approve such higher rate." "All legal services contracts must be sent to the Legislative Contract Review Committee."

5. **A review of the contract between the Board of Pharmacy (Committee on Rehabilitating Impaired Pharmacists) and the University of Alabama Birmingham (UAB) for the period examined revealed that monthly payments made to UAB by the board were sometimes less than or more than the terms stipulated** in the contract and resulted in an underpayment to UAB in the 2006 fiscal year of $5,191.55 and an overpayment to UAB in the 2007 fiscal year of $1,447.28.

6. **Votes to enter executive session at board meetings were not individually recorded in the minutes, as required by the state's Open Meetings Act.**

   The ***Code of Alabama 1975***, Section 36-25A-7(b) states that, "A governmental body desiring to convene an executive session, other than to conduct a quasi-judicial or contested case hearing, shall utilize the following procedure:… (3) The vote of each member shall be recorded in the minutes…"

7. **The board's $100 fee for assistant pharmacist original registration is in excess of the $50 maximum fee set by statute. In addition, the fees charged by the board for both original and renewal of registration for assistant pharmacists has not been incorporated into the board's administrative rules, as required by the state's Administrative Procedure Act. Without an administrative rule setting the fees, the board has no authority to charge them.**

   Regarding registration of assistant pharmacists, the ***Code of Alabama 1975***, Section 34-23-50 states that, "such person shall pay an original registration fee to be determined by the board, but the **fee shall not be less than twenty-five dollars ($25) nor more than fifty dollars ($50)** upon the issuance of such certificate, and the renewal fee to be determined by the board, but the renewal fee shall not be less than twenty-five dollars ($25) nor more than one hundred fifty dollars ($150) as provided in this chapter."

   Section 34-23-50 [above] allows the board to charge a fee for original and renewal of registration as an assistant pharmacist within a specified range. Consequently, the board must choose a fee within the specified range. The board's choice of a specific fee is a policy decision that meets the definition of an administrative rule found in the state's Administrative Procedure Act. The Administrative Procedure Act requires administrative rules to be adopted and implemented in accordance with specific procedures that include a period of advertisement for public comment and approval by the Legislative Council. The board set the fees for assistant pharmacist without subjecting the policy to these procedures.

8. **The board's biennial schedule for license renewal is in conflict with a provision for license renewal found in state's Controlled Substances Act.** The ***Code of* Alabama *1975,*** Section 34-23-52 of the board's licensing law provides that, "All certificates of licensure shall expire on December 31 of **even- numbered years**." In contrast, the ***Code of Alabama 1975***, Section 20-2-182(a) of the Controlled Substances Act provides that, "A manufacturer, wholesaler, retailer, or other person who sells, transfers, manufactures, purchases for resale, or otherwise furnishes any listed precursor chemical defined in Section 20-2-181 must first

obtain a license **annually** from the Board of Pharmacy." The discrepancy appears to have resulted when the board's licensing law was amended to allow two-year licenses, thereby placing the licensing schedule in the board's licensing law out of synchrony with the annual licensing requirement in the Controlled Substances Act. In addition, the Controlled Substances Act provides for a separate controlled substances registration in the ***Code of Alabama 1975,*** Section 20-2-51 by providing that, "Any person who manufactures, distributes or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance within this state must obtain **annually** a registration issued by the certifying boards [includes the Board of Pharmacy] in accordance with its rules." This separate annual controlled substances registration requirement does not appear to be in conflict with the board's licensing law, but it is also not in synchrony with the board's licensing schedule.

One board member noted in his response to our questionnaire that, "It would simplify our board operation and also that of pharmacy permit holder and pharmacist permit holders if we could combine the controlled substance and pharmacy license into one license for each."

9. **SB411 sponsored by Senator Tom Butler in the 2008 Regular Session** would have authorized the Board of Pharmacy to adopt rules providing for assessment of a civil penalty against any licensee for non-disciplinary infraction for failing to comply with designated obligations required of the licensee by any applicable provision of law or by any applicable rule. SB411 was indefinitely postponed in house of origin.

10. **Responses to questionnaires from board licensed facilities shows a disparity among different classes of facilities** as to the adequacy of notification of changes in board policies: 20% of chain pharmacies, 30% of medical oxygen supplier pharmacies, and 46% of manufacturers, wholesalers, distributors, and mail order firm pharmacies state that they are not adequately informed by the Board of Pharmacy of changes to and interpretations of board positions, policies, rules and laws.

STATUS OF PRIOR FINDINGS

11. **Prior Finding – Leave record discrepancies**: During the previous examination, three employees were found to have leave balance errors. In the previous examination, we recommended that leave balances should be reported to all employees for confirmation at least monthly and immediately prior to payment of unused balances at termination of employment.

    Current Status: This type of error continues. In the current examination, we found errors in the leave balances of three other employees, including an understatement of annual leave of 1 hour, overstatement of annual leave by 4 hours, understatement of sick leave by 8 hours, and overstatement of sick leave by 20 hours. All of the errors occurred at the end of the year, with the errors for two persons consisting of wrong leave balances brought forward into the new year.

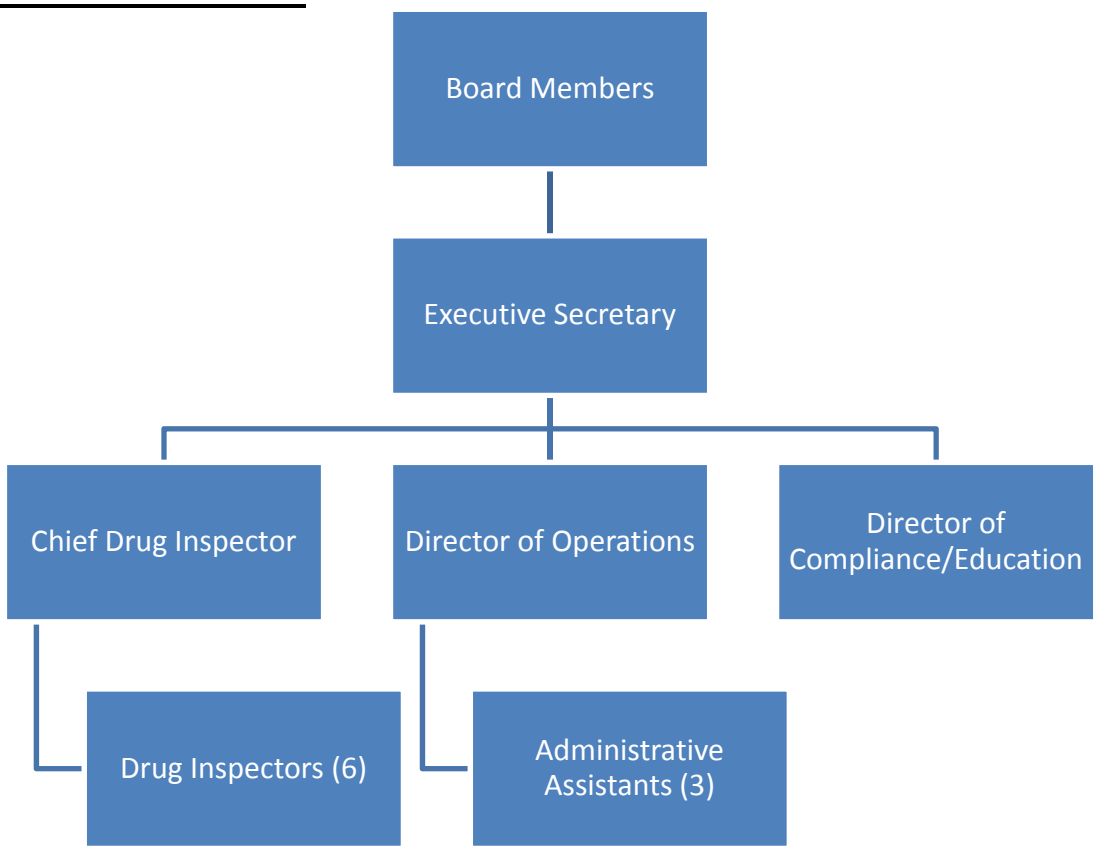
12. **Prior Finding – Competitive selection process for professional services not followed**: During the prior examination, the board utilized the professional services of three private companies. None were obtained by means of the competitive selection process required by

the ***Code of Alabama 1975,*** Sections 41-16-70 through 41-16-72. We recommended that the board should obtain professional services in accordance with procedures provided in the ***Code of Alabama 1975***, Sections 41-16-70 through 41-16-72 and should maintain such records as are necessary to show compliance with these procedures.

Current Status: This type of error continues. In the current period examined the board did not comply with Alabama's competitive selection process before signing a contract with New Tech Solutions to provide various IT services. The contract amount is $60 per hour, not to exceed $100,000 over the length of the contract. The board did not solicit requests for proposal (RFP) or otherwise afford other IT professionals an opportunity to apply for the work contracted with New Tech Solutions.

The ***Code of Alabama 1975,*** Section 41-16-72 requires that, "Notice of need for professional services shall be widely disseminated to the professional community in a full and open manner. Procuring state entities shall evaluate such professionals that respond to the notice of need based on such state entity's qualification-based selection process criteria. Any such procuring state entity shall then make a good faith effort to negotiate a contract for professional services from the selected professional after first discussing and refining the scope of services for the project with such professional."

ORGANIZATION



PERSONNEL

The Board of Pharmacy employs thirteen (13) persons, all non-merit system employees.

Schedule of Employees

Classification	Number of Employees	Race	Gender
Executive Secretary	1	White	Male
Director of Operations	1	White	Female
Director of Compliance/Education	1	White	Female
Chief Inspector	1	White	Male
Administrative Assistants	3	White	Female
Investigators	6	White	Male

PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee – 1,415

Total Expenditure per Licensee (2006-2007 Fiscal Year) - $94.43

Number of Persons per Licensee in Alabama and Surrounding States

	Population (Estimate)*	Active Pharmacists	Persons Per Pharmacist	Active Techs	Persons Per Tech	Facilities	Persons Per Facility
Alabama	**4,627,851**	**6,482**	**714**	**8,259**	**560**	**3,648**	**1,269**
Florida	18,251,243	33,334	548	**N/A**	**N/A**	11,266	1,620
Georgia	9,544,750	11,841	806	**N/A**	**N/A**	4,137	2,307
Mississippi	2,918,785	2,767	1,055	3,800	768	1,638	1,782
Tennessee	6,156,719	8,700	708	11,800	522	3,250	1,894

***July 1, 2007 Census Bureau Population Estimates Report
N/A = Florida and Georgia do not license pharmacy technicians.

Notification to Licensees of Board Decisions to Amend Administrative Rules

The board complied with procedures as provided in the state's Administrative Procedure Act, which includes submitting proposed rules to the Legislative Reference Service for publication in the Administrative Monthly, and public hearings on proposed rules, except as noted in the significant items section of this report. Licensees are not individually notified.

According to staff members, licensees are notified 30 days before the effective date of rule changes, either through a quarterly newsletter published by the board or by postings on their web page at www.albop.com.

Inspections

The Board of Pharmacy did not supply requested historical data or statistics concerning inspections and does not maintain a database of inspection information.

Inspectors are assigned a territory to cover, and are authorized to set their own itineraries. There is no required frequency of inspection.

Each state drug inspector has the authority to inspect the medicines and drugs or drug products or domestic remedies which are manufactured, packaged, packed, made, sold, offered for sale, exposed for sale or kept for sale in this state, and for this purpose has the right to enter and inspect during business hours any pharmacy or any other place in Alabama where medicines or drugs or drug products or proprietary medicines are manufactured, packaged, packed, made, sold, offered for sale or kept for sale, whether or not licensed by the State Board of Pharmacy.

Each state drug inspector is subject to the same restrictions as other officers of the law in regard to search and seizure. They must report to the board all violations of the laws relating to pharmacy and all rules and regulations of the board. As directed by the board, it is the duty of the state drug inspectors to issue citations for violations of such laws, rules or regulations or institute criminal proceedings against persons for such violations.

When authorized by the board and where there are specific complaints, the state drug inspector has the right to inspect all records, shipping tickets or any other document pertaining to the transfer of drugs or drug preparations, from or to hospitals, pharmacists, wholesale establishments and manufacturers, or any other place or establishment where said preparations of drugs are kept or stored. They have the authority to inspect all prescription files, prescription record books, poison registers, exempt narcotic registers and any other records pertaining to the filling and filing of prescriptions.

It is the duty of the state drug inspector to take possession of all revoked and/or suspended licenses and permits when such licenses and permits are not surrendered voluntarily to the board by the person or pharmacist whose license or permit has been revoked or suspended. State drug inspectors are not authorized or required to inspect the offices of doctors of medicine who have qualified with the State Board of Medical Examiners.

Complaint Resolution

Consumer complaints

Consumer complaints consist of any communication that comes into the office, written, emailed, or oral that is from a consumer. A written formal complaint is required by the board from the complainant, unless the person cannot write due to either illiteracy or a disability.

Non-consumer complaints or “investigations”

This type of complaint usually originates from onsite observation by an investigator, by notification from law enforcement agencies, by notification from insurance companies, or by notification from loss prevention personnel from chain pharmacies, or pharmacists from independent settings.

The most common type of complaints from both consumer complaints and from investigative complaints are; incorrectly filled prescriptions, shorted medications, dispense as written violations and costs of meds/billing issues; and theft, impairment and diversion, respectively.

The board utilizes a database dedicated to the tasks of recording, monitoring and resolution of complaints. Results of administrative hearings and consent orders are recorded in the board's licensee database.

The board also utilizes a written ledger of unpaid fines resulting from consent orders or administrative hearings, which is maintained by the board staff and used to monitor payment.

Disciplinary actions levied against licensees are published in the board's newsletter and sent along to the national association website to facilitate the tracking of these persons or entities.

A review of the board's resolution of complaints revealed some weaknesses. The board's database is not set up to calculate the amount of time elapsed between the complaint receipt and complaint resolution. This information would be helpful in evaluating and managing the complaint resolution process.

Based upon a review of twenty-one complaint files, four did not contain resolution letters sent to the complainant; five did not have resolution letters sent to the respondent; five complaints appear to be resolved but are not marked accordingly in the database; five contain no documentation concerning the investigation; and three files that are ongoing investigations, do not contain the original copy of the complaint form. According to the board's complaint database, the median number of days for resolution of complaints reviewed is 88 days.

Only 57% of the complainants that returned questionnaires stated that the board did everything it could to resolve their complaint; and only 61% of the complainants that returned questionnaires stated that they were satisfied with their dealings with the board.

Complaints Processed by the Board of Pharmacy						
Year Received	**Number Received**	**Year/Number Resolved**				**Number Unresolved**
		2006	**2007**	**2008**	**Unknown**	
2004	99				89	10
2005	113	16	1		85	11
2006	183	75	71	1	6	30
2007	189		67	10	9	103
Total Unresolved Complaints						154

Source: Board Complaints Database

Complaints Processing

Initial Documentation	The board requests that all complaints be filed in writing and may be submitted in person, by fax or mailed to the board office. If a person cannot write due to illiteracy or disability, the person may make an oral complaint. There may be an initial interview with the complainant prior to receiving the actual written or oral complaint. Complaints are also received from an online complaint form that is on the board's website. Upon completion of the form by a complainant, an email is generated to the Chief Inspector with all the details of the complaint. Persons filing a non-consumer complaint with the board are not required to fill out a complaint form, although a written statement is usually provided during the investigation.

Informal Disciplinary Procedure	The chief investigator performs an initial review of the complaint and assigns the case to an investigator. The investigator assigned the case conducts an investigation to determine if any implication of the Practice of Pharmacy Act or the Uniform Controlled Substances Act exists. At the conclusion of the investigation, the investigator will submit a written report to the chief investigator outlining the findings of his investigation. The chief investigator and board secretary reviews the report to determine if there is probable cause for a violation. The executive director makes the final decision as to accept the Chief Inspector's recommendation or to suggest another method for resolution. Once a determination is made, both the executive director and the chief investigator sign a complaint/case disposition form showing the action taken on the complaint. The complainant is notified as to the outcome of the investigation. If it is determined there is a violation of the Pharmacy Practice Act or the Uniform Controlled Substance Act, a verbal or written warning may be issued.
Formal Hearings	If administrative action is deemed necessary, the final report, with all documentation, is turned over to the board's attorney for final review and, if the attorney concurs with the report, he drafts charges for an administrative due process hearing. Formal charges are sent to the licensee and comply with the requirements of the Alabama Administrative Procedures Act and are served in a timely manner as prescribed by law. The person charged with a violation appears before the members of the board for an administrative hearing, where the board is represented by its prosecuting attorney and the meeting is conducted by an administrative hearing officer. The person being charged has the right to an attorney to be present at the time of the hearing. Both the board and the licensee have the right to present testimony and each party has the right of cross-examination. At the conclusion of all testimony the board deliberates, outside the presence of all parties, as to the outcome and instructs the administrative hearing officer to draft a final order of their decision to be signed by the executive director and mailed to the parties involved. The board members are not involved in any part of the investigation process and are not informed of the parties involved until the day of the administrative hearing. This assures that all parties involved will receive a fair hearing.
Resolution/ Disposition	If it is determined there is a violation of the Pharmacy Practice Act or the Uniform Controlled Substance Act, a written warning or verbal warning may be issued; or a consent order may be issued or administrative action taken including fines, suspensions and revocations of licensure.
Anonymous Complaints	Anonymous complaints are usually not accepted. However, if an anonymous complaint appears to jeopardize the protection of public health, safety and welfare of the people of Alabama, then the complaint will be investigated.

FINANCIAL INFORMATION

Schedule of Fees

Fee	Statutory Authority	Amount
Original Pharmacist License	S 34-23-51	$100.00 biennial
Pharmacist Renewal	S 34-23-52	$100.00 biennial even # years
Pharmacist Controlled Substance License	S 20-02-50	$100.00 even # years
Pharmacist Controlled Substance License Renewal	S 20-02-50	$100.00 even # years
Pharmacist Controlled Substance Surcharge for Maintenance of Database	S 20-2-217	$10.00/year
Pharmacist/Pharmacist Assistant/ Technician Late Penalty	S 34-23-52(a)	$10.00/mo.
Assistant Pharmacist Renewal	S 34-23-50	$100.00 biennial
Technician	S 34-23-131(c)	$60.00 odd # years
Technician Renewal	S 34-23-131(c)	$60.00 odd # years
New Pharmacy Permit	S 34-23-30	$200.00
Pharmacy Renewal Permit	S 34-23-30	$100.00 biennial even # years
Pharmacy Late Penalty	S 34-23-30	$25.00/month
Pharmacy Controlled Substance Permit & Renewal	S 20-02-50	$300.00 even # years
Pharmacy Change of Name/Ownership	S 34-23-30	$50.00
Reciprocity License	S 34-23-51	$300.00
Non-resident Pharmacy Permit	S34-23-52	$200.00 biennial
Non-resident Pharmacy Renewal	S 34-23-52	$100.00 biennial
Non-resident Pharmacy Controlled Substance (Permit & Renewal)	S 20-02-51	$300.00 even # years
Manufacturer/Wholesaler/Distributor Permit	S 34-23-32	$500.00
Manufacturer/Wholesaler/Distributor Renewal	S 34-23-32	$500.00 biennial even # years
Manufacturer/Wholesaler/Distributor Change of Ownership	S 34-23-32	$250.00
Manufacturer/Wholesaler/Distributor Late Penalty	S 34-23-32	$25.00/month
Manufacturer/Wholesaler/Distributor Controlled Substance Permit & Renewal	S 20-2-50	$600.00 biennial even # years
Manufacturer/Wholesaler/Distributor - Precursor Chemicals License	S 20-2-187	$500.00 biennial
Individual, Corporation, Partnership, Association or Any Other Entity Use - Precursor Chemicals Permit	S 20-2-187	$35.00
New Medical Oxygen Retailers	Final Settlement Approval Order, Civil Action No. CV-97-416-GR	$400.00 biennial
Medical Oxygen Retailers Renewal	Final Settlement Approval Order, Civil Action No. CV-97-416-GR	$250.00 biennial
Law Books	Cost Recovery	$7.00
Copies	Cost Recovery	$0.25/per page
Duplicate License	Cost Recovery	$10.00
Mailing Labels/Printouts	Cost Recovery	(Up to) $100.00
Board Penalties	S 34-23-13	Not to exceed $1,000/violation

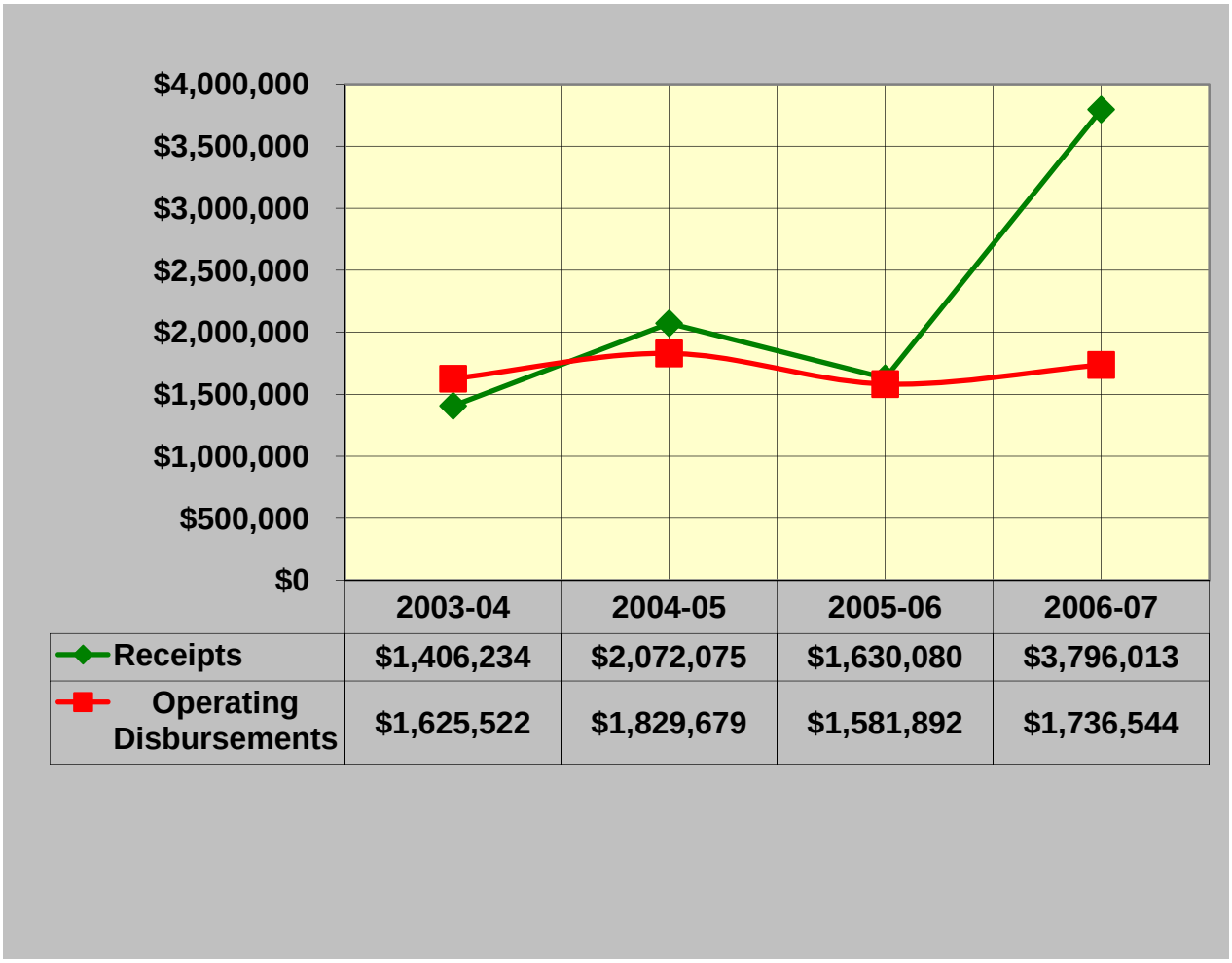
Schedule of Cash Receipts, Disbursements, and Balances

For the Period October 1, 2003 through September 30, 2007

	2006-2007 (1)	2005-2006	2004-2005	2003-2004
Receipts				
License and Permit Fees	$ 3,219,842.83	$ 1,188,607.39	$ 1,777,044.00	$ 1,216,449.74
Sale of Labels, Printouts, Lawbooks	265.20	1,610.50	3,273.00	3,335.00
Refunds **(2)**	25,606.39	29,795.25	25,797.60	15,963.46
Penalties	392,222.80	366,077.00	207,339.24	162,700.76
Interest Income	122,675.89	43,842.17	26,293.78	7,597.42
Sale of Surplus Property	5,400.00	147.83	32,327.48	187.50
Prescription Drug Monitoring Program **(3)**	30,000.00	-	-	-
Total Receipts **(1)**	3,796,013.11	1,630,080.14	2,072,075.10	1,406,233.88
Operating Disbursements				
Personnel Costs	869,231.34	828,848.09	885,627.43	749,577.64
Employee Benefits	175,531.76	163,651.10	161,382.81	130,097.09
Travel In-State	56,662.21	52,434.23	46,578.68	55,327.51
Travel Out-of State	55,444.81	44,805.48	70,123.70	78,502.96
Repairs and Maintenance	1,793.00	5,039.00	11,827.05	4,922.37
Rentals and Leases	106,451.88	98,227.52	88,478.78	110,075.51
Utilities and Communications	48,106.28	53,777.15	53,950.78	50,145.55
Professional Services	202,219.30	185,277.54	335,137.78	186,694.50
Supplies, Materials, and Op. Expenses	103,657.02	99,724.54	112,784.28	83,438.09
Transportation Equipment Operations	46,374.64	44,376.09	38,774.53	35,424.71
Transportation Equipment Purchased	36,624.00	-	15,890.35	92,116.00
Transportation Equipment Leased **(4)**	12,389.28	-	-	-
Other Equipment Purchases	22,058.24	5,731.45	9,122.96	49,200.35
Total Disbursements	1,736,543.76	1,581,892.19	1,829,679.13	1,625,522.28
Excess (Deficiency) of Receipts over Disbursements	2,059,469.35	48,187.95	242,395.97	(219,288.40)
Cash Balances at Beginning of Year	657,532.11	609,344.16	366,948.19	586,236.59
Cash Balances at End of Year	2,717,001.46	657,532.11	609,344.16	366,948.19
Reserved for Unpaid Obligations	(10,000.00)	(10,000.00)	(50,000.00)	(100,000.00)
Unreserved Cash Balances at end of Year	$ 2,707,001.46	$ 647,532.11	$ 559,344.16	$ 266,948.19

(1) A significant increase in total receipts for 2006-2007 is due to the first-time collection of bienniel renewals from pharmacists and facilities.
(2) Amounts received in error and due to be refunded.
(3) Contract with the Alabama Department of Public Health.
(4) The board decided late in the fiscal year to lease instead of purchase vehicles as a cost reduction method.

Operating Receipts Vs. Operating Disbursements (Chart)



	2003-04	2004-05	2005-06	2006-07
Receipts	$1,406,234	$2,072,075	$1,630,080	$3,796,013
Operating Disbursements	$1,625,522	$1,829,679	$1,581,892	$1,736,544

SMART BUDGETING

The board's financial transactions are not carried out within the State Treasury and are not governed by regulations of the Department of Finance. Consequently, the board does not participate in the Department of Finance SMART Budgeting program.

QUESTIONNAIRES

Board Member Questionnaire

Questionnaires were mailed to all five board members. All five responded.

Question #1

What are the most significant issues currently facing the Board of Pharmacy and how is the board addressing these issues?

1. "Probably the most significant issue is getting the board's operations into the 21st century." *"Going paperless, more automation, better communication technology for service to the public and the pharmacists."*
2. "More technicians not understanding laws regarding their registration." *"The board is using outreach through the education department of the board."*
3. "One of the main issues is advancing the board via technology." *"The board is working on improving and has improved phone systems that allow both communications to our customers and via employees within the office. Also, beginning to work toward a paperless system as well."*
4. "Drug diversion." *"Being addressed by increasing education of the issue with techs and Rph's."*
5. "Trying to protect the public health with issues such as internet pharmacies, out of the country mail order pharmacies."

Question #2

What changes to the Board of Pharmacy's laws are needed?

1. "We need a statute to allow registrants to pay set administrative fines for certain violations such as late renewals rather than having them appear before the board."
2. "Changes to allow the board to separate criminal charges from civil charges."
3. "???"
4. "None."
5. "It would simplify our board operation and also that of pharmacy permit holder and pharmacist permit holders if we could combine the controlled substance and pharmacy license into one license for each."

Question #3

Is the Board of Pharmacy adequately funded?

__5__ Yes __0__ No __0__ Unknown __0__ No Opinion

1. "Our present revenues seem to be adequate for our projected budget as long as we watch our expenses closely."

Question #4

Is the Board of Pharmacy adequately staffed?

__3__ Yes __2__ No __0__ Unknown __0__ No Opinion

1. "For ¾ of year, I think we are good. During about three months of year when revenue from licensees are not coming in we have had some problems."
2. "No." "Yes our staff is adequate today, however, if present trends continue I think the staff will need to be increased. I think that within the next 2-3 years we will need to add investigators and a full-time I.T. person."

Question #5

What is the purpose of the board's fiscal year end balance of unobligated funds?

1. "We renew pharmacist license every two years. On the even years we renew pharmacist license and on the odd years we renew technicians. This makes us have a fat year (when pharmacists renew) and a lean year (when technicians renew). The fat year carry over is necessary for the lean year."
2. "I don't know specifically. I believe the balance is to have on hand enough operating capital for maintaining the budget."
3. "The Board operates on a 2 year budget cycle where one year is "leaner" than another based on registration and renewals. The additional money from 1 year provides for the next year where revenue may not be as much."
4. "Carry over for lean year."
5. "Because our main revenue source comes every two years. This is when pharmacies and pharmacists renew. This revenue is carried over in unobligated funds and is needed the next year (Jan 08 to Jan 09) when the revenue source is lower, as we only receive technician registration fees. If we did not have this carry-over for the lean financial year, we would not have funds to pay our obligations. Our legal expenses could be very different as any of our cases can be brought into circuit court for appeal, and state or federal court."

Registered Pharmacist Questionnaire

Questionnaires were mailed to one hundred registered pharmacists. Fifty-six responded.

Question #1

Do you think regulation of your profession by the Board of Pharmacy is necessary to protect public welfare?

56 Yes 0 No 0 Unknown 0 No Opinion

1. "Yes, in all areas of health care – MDs, RNs, PTs, etc. – there is possibility for error. With CE, rules, and licensure requirements – boards seek to lower the risk of error, as pharmacy errors are far less than in other areas of medicine, it seems they are succeeding."

Question #2

Do you think any of the Board of Pharmacy's laws, rules, and policies are an unnecessary restriction on the practice of your profession?

10 Yes 45 No 1 Unknown 0 No Opinion

1. "No, but need to re-examine definition of a pharmacy as only a brick/mortar structure."

Question #3

Do you think any of the Board of Pharmacy's requirements are irrelevant to the competent practice of your profession?

11 Yes 41 No 2 Unknown 2 No Opinion

1. "Yes, certain elements required to be maintained in a pharmacy are no longer necessary."
2. "Yes, the latest law where must add SS# for control substances. It's ridiculous and I do not see where it will solve substance abuse."
3. "Yes, meeting requirement in Birmingham for all new licensees."

Question #4

Are you adequately informed by the Board of Pharmacy of changes to and interpretations of board positions, policies, rules and laws?

40 Yes 12 No 2 Unknown 2 No Opinion

Question #5

Do you utilize the Board of Pharmacy's online renewal system?

38 Yes 18 No

If yes, are you satisfied with the process?

35 Yes 3 No

If not satisfied, what problems have you experienced?

1. "Spaces and signature name are not always matchable."
2. "Do not utilize. I was not allowed to renew online a few years ago because I had been on probation for one year about two years prior to trying to renew online. I don't know if the glitch in the software has been corrected as I have not even tried since then."
3. "I had an employee pharmacist who in December 2006 thought she had completed renewal but evidently site timed out. She, my pharmacy, and myself were each fined $500.00, which <*illegible*>. I was told by office staff at the board that a number of people experienced problems."
4. "Should not have to pay extra to process online."
5. "Do not utilize. Do not like having to pay a $5.00 processing fee."

Question #6

Has the Board of Pharmacy performed your licensing and/or renewal in a timely manner?

53 Yes 0 No 3 No Opinion

Question #7

Do you consider mandatory continuing education necessary for competent practice?

44 Yes 9 No 0 Unknown 3 No Opinion

1. "No, continuing education requirements could be improved."

Question #8

Has the Board of Pharmacy approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?

49 Yes 3 No 2 Unknown 2 No Opinion

1. "Yes, Free CE is being forced out and replaced by those that charge a fee."
2. "No, Need more live via internet offered."

Question #9

What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board of Pharmacy doing to address the issue(s)?

1. "Independent P7 and the Part D <*illegible*> are causing a struggle."
2. "Technician access to pharmacy dept., locking them out."
3. "Technician / Pharmacist ratio."
4. "Shortage of pharmacists – not much Board can do. Reimbursement rates – not regulated by the Board."
5. "Lack of third party standardization for processing claims." *"Don't think the Board of Pharmacy is doing anything."*
6. "Severe shortage of pharmacists, technician training, MTM, and AWP."
7. "In retail practice there is a big public safety issue concerning the number of prescriptions a pharmacist is expected to fill daily with little or no support personnel."
8. "PDMs." *"I do not think this is within their scope."*
9. "Retail setting: Pharmacists are overpowered in the chain retail setting. The state board does not require the chains to focus on patient safety (as in the hospital setting where JCAHO requires focus on patient safety)."
10. "Patients abusing controlled substances (i.e. lortab, valium, etc.) via means of doctor and pharmacy "shopping." *"Board now requires S.S. # or driver license #."*
11. "Mail order of prescription meds."
12. "Abuse of control substances." *"Board is using the pharmacy drug query (or helped put it in practice). It should help physicians and pharmacists reduce abuse among our patients."*

13. "All technicians should be certified with adequate pay - this should be required and not voluntary in order to have more efficient help to the pharmacists."
14. "I think the biggest challenge is keeping up with new information regarding our profession. This includes new therapies, new technology, new policies and just keeping up with the wealth of new info every year. I think the board could provide more resources to stay updated."
15. "More and more technical and professional responsibility is being required of our technicians as our work load increases. We need technicians with good character and ability. I'm glad they are now accountable to meeting a professional board's standards."
16. "Overworked and stress due mostly to insurance issues. Do not think it should be our job to resolve individual insurance issues."
17. "Medicare Part D reimbursement." *"I feel that the board is limited in what it can do in this matter."*
18. "Mail order, very low reimbursement fees. Increased number of prescriptions to handle each day. Frustration of pharmacist with 3rd party nonsense. Frankly, I am rather glad that I am retired and only do some relief work. I would hate to know I had to do this every day for the next 30 or 40 years if I were young. I had the best of times."
19. "Low third party reimbursement."
20. "Unregulated internet pharmacies as well as mail order pharmacies." *"I'm not sure what the board has done."*
21. "Too much control of pharmacy by third party programs. Pharmacy should control what they are paid for prescriptions. Although $4 and free Rx is a disgrace to our profession."
22. "Shortage of pharmacists, drug diversion, remote order entry/review for hospitals without 24 hour pharmacy service." *"Unknown how issues are being addressed."*
23. "Non-uniform insurance cards, every company has its own format for setting up their insurance card."
24. "Shortage of pharmacists." *"A.U. has started a branch in Mobile."*
25. "Reimbursement issues and managed care and lobbying for professions sake."
26. "Revision of Act 205, Title 34 to provide a definition of pharmacy practice that is more consistent with Federal directives, i.e., medication management services."
27. "Pharmacist shortage."
28. "RPH to tech ratio! RPH's that are working for retail chains that will not allow RPH overlap should be allowed more tech help. 500 RPH Rx's for one RPH is a critical issue. *"Not sure that the board is doing anything to increase the # of techs per RPH."*
29. "Poor reimbursement for Rxs, especially Medicaid."
30. "Shortage of pharmacists causes severe work loads increasing error rates." *"Not sure what current drive is to lesson work loads."*
31. "Not aware of any great problem."
32. "Drug use and addiction among practicing pharmacists." *"Board of Pharmacists giving these pharmacists excessive "chances" to clean up."*
33. "Prescription drug abuse, technicians."
34. "Illegally manufactured medications." *"The board licenses and inspects all manufactures and suppliers, and performs inspections in drug stores and hospitals to insure the quality of the medications we dispense."*
35. "3rd party insurance. The board is doing nothing. Every 3rd party insurance should have a card that could be swiped in pharmacy, no inputting of information that is on card."

36. "Number of techs in order to be able to take care of customers without having to rush and of course mistakes can happen when you are so busy without the help that is needed!"
37. "Medicaid reimbursement. Fraudulent Rxs – proper writing of Rxs by doctors. Reading Rxs with complete info (DBA#'s etc.).
38. "The sell of Sudafed. Currently it is required of the consumer to show ID and for the sell to be logged."
39. "Communication with doctor offices – especially on drug interactions. Either can't get an answer at all or <*illegible*> answers for the doctor. Also problems with doctors writing too many narcotics and what to do about filling them."
40. "I have lived in AL for only 2 years; therefore it is difficult to say what the most significant issue is. One issue I've seen recently appears to be regarding the need for a Board of Pharmacy, which is very necessary in my opinion."
41. "Pharmacy clinical education needs to be expanded and explained more in pharmacy school."
42. "Medicaid reimbursement." *"Not aware of any action."*
43. "Not sure at the moment."
44. "Unreasonable workload." *"Nothing."*

Question #10

Do you think the Board of Pharmacy and its staff are satisfactorily performing their duties?

47 Yes 1 No 3 Unknown 5 No Opinion

Question #11

Has any member of the Board of Pharmacy or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

0 Yes 56 No 0 Unknown 0 No Opinion

1. "No, we have a good Board of Pharmacy and inspectors as well."

Registered Technician Questionnaire

Questionnaires were mailed to one hundred registered technicians. Thirty-eight responded.

Question #1

Do you think regulation of your profession by the Board of Pharmacy is necessary to protect public welfare?

30 Yes 4 No 2 Unknown 2 No Opinion

Question #2

Do you think any of the Board of Pharmacy's laws, rules, and policies are an unnecessary restriction on the practice of your profession?

03 Yes 29 No 4 Unknown 2 No Opinion

Question #3

Do you think any of the Board of Pharmacy's requirements are irrelevant to the competent practice of your profession?

2 Yes 28 No 4 Unknown 4 No Opinion

Question #4

Are you adequately informed by the Board of Pharmacy of changes to and interpretations of board positions, policies, rules and laws?

24 Yes 7 No 4 Unknown 3 No Opinion

Question #5

Do you utilize the Board of Pharmacy's online renewal system?

26 Yes 12 No

If yes, are you satisfied with the process?

26 Yes 0 No

If not satisfied, what problems have you experienced?

Question #6

Has the Board of Pharmacy performed your licensing and/or renewal in a timely manner?

35 Yes 0 No 3 No Opinion

Question #7

Do you consider mandatory continuing education necessary for competent practice?

31 Yes 4 No 0 Unknown 3 No Opinion

Question #8

Has the Board of Pharmacy approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?

25 Yes 2 No 9 Unknown 2 No Opinion

Question #9

What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board of Pharmacy doing to address the issue(s)?

1. "The most significant issue is third party Part-D Reimbursement."
2. "Shortage of pharmacists, forcing pharmacists to be closed and/or cut staff which impacts technicians' opportunity to work." *"Not aware of anything board is doing to address this."*
3. "At this time we have no issues." *"The Board of Pharmacy is doing an excellent job."*
4. "The purchasing of pseudoephedrine." *"I believe the limitations are helping some."*
5. "Donut hole – Part D"
6. "Pharmacist to tech ratio and pharmacists who work too long of hours without sufficient breaks and lunches are naturally prone to increased errors. Pharmacists are humans, not machines."
7. "It's very hard to get continuing education to all techs, especially since I'm in college, and they are only offered during the day time."
8. "The only problem I have is finding out about continuing education hours with other providers or companies. I wish it was a way the other providers or companies would send out info <*illegible*>."

9. "Irrational people not listening to what we have to say."
10. "Watching out for the young coming in as techs and stealing and selling drugs."
11. "Finding a job." "Could you post jobs for our area?"
12. "I think the Board of Pharmacy should re-evaluate the situation of only 2 pharmacy technicians per pharmacist. I think anyone working in the pharmacy should have license and be able to help the pharmacists. We are short certified technicians in Alabama. We are also short pharmacists in the state of Alabama. We also need more doctors to make prescriptions more legible for technicians to read. We have some doctors who will write 6 and 7 prescriptions on one side, it is very hard to read their handwriting. It would be a lot safer if prescriptions were typed out or 2 (handwritten) to a prescription. I think certified technicians should have to retest earlier and more often. I think there should be random drug testing once or twice a year for everyone working in a pharmacy and OTC employees."
13. "Interpretation of badly written Rx and people taking advantage of Medicaid and insurance."
14. "Pharmacy letters/Tech letters much appreciated! C.E. Opportunities. Overuse of pseudoephedrine. Too many narcotics written by physicians."

Question #10

Do you think the Board of Pharmacy and its staff are satisfactorily performing their duties?

31 Yes 0 No 3 Unknown 4 No Opinion

Question #11

Has any member of the Board of Pharmacy or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

0 Yes 38 No 0 Unknown 0 No Opinion

Pharmacy (Chain)

Questionnaires were mailed to thirty-four licensees. Twenty responded.

Question #1

Do you think regulation of your company's business by the Board of Pharmacy is necessary to protect public welfare?

20 Yes 0 No 0 Unknown 0 No Opinion

1. "At its current levels, Board of Pharmacy ensures or helps ensure safe practices."
2. "My business is regulated by DEA. This is sufficient. I am a wholesale distributor of ephedrine/pseudoephedrine."

Question #2

Do you think any of the Board of Pharmacy's laws, rules, and policies are an unnecessary restriction on the practice of your company's business?

6 Yes 12 No 2 Unknown 0 No Opinion

Question #3

Do you think any of the Board of Pharmacy's requirements are irrelevant to the competent practice of your company's business?

1 Yes 15 No 1 Unknown 3 No Opinion

Question #4

Are you adequately informed by the Board of Pharmacy of changes to and interpretations of board positions, policies, rules and laws?

15 Yes 4 No 0 Unknown 1 No Opinion

Question #5

Do you utilize the Board of Pharmacy's online renewal system?

19 Yes 1 No

If yes, are you satisfied with the process?

19 Yes 0 No

If not satisfied, what problems have you experienced?

Question #6

Has the Board of Pharmacy performed your licensing and/or renewal in a timely manner?

19 Yes 0 No 1 No Opinion

Question #7

What do you think is the most significant issue(s) currently facing your company's business in Alabama and what is the Board of Pharmacy doing to address the issue(s)?

1. "Tech's being asked to perform functions that would best be left to pharmacists i.e. interpreting Rx and entering of Rx into computer system. Pharmacist expected to review upwards of 500 to 600 Rx in a shift." *"Not sure if board is looking at these issues or not?"*
2. "Retail pharmacists are overworked and this is a serious issue regarding public safety. Contributing factors are inadequate staffing, drive thru lanes and now PSE sales. Counseling does not get performed because of the workload as well."
3. "Insurance fees." *"I do not know if they are doing anything."*
4. "Online pharmacies, mail order, too much government control."
5. "Diversion of controlled substances." *"Board is responding by investigation and enforcement of laws."*
6. "Medicaid and Rx pad changes."
7. "The out of control use of oxycodone and hydrocodone products as well as others i.e. *<illegible>." " Pharmacy's goal is to improve health, not support a legal drug habit."*
8. "PBMs, mail order pharmacy, AWP vs. AMP, but don't worry – nobody (including the president), cares about pharmacy and what the real problems are."
9. "Pseudoephedrine regulations are tedious, making it difficult for busier pharmacists/pharmacies to fill scripts in a timely fashion. RPH safety regarding height of counter tops – makes robberies more likely. MDs having on-site, non RPH managed dispensaries, some are even dispensing controlled substances with refills."

10. "Too many to list – Internet pharmacy."
11. "Work load/lack of time to interact with patients as we'd like to."
12. "Amount of our time being spent resolving insurance issues." *"I am not aware of any way the issue is being addressed."*

Question #8

Do you think the Board of Pharmacy and its staff are satisfactorily performing their duties?

15 Yes 0 No 4 Unknown 1 No Opinion

Question #9

Has any member of the Board of Pharmacy or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

0 Yes 20 No 0 Unknown 0 No Opinion

Pharmacy (Community)

Questionnaires were mailed to thirty-six licensees. Twenty-five responded.

Question #1

Do you think regulation of your company's business by the Board of Pharmacy is necessary to protect public welfare?

23 Yes 2 No 0 Unknown 0 No Opinion

Question #2

Do you think any of the Board of Pharmacy's laws, rules, and policies are an unnecessary restriction on the practice of your company's business?

7 Yes 16 No 1 Unknown 1 No Opinion

Question #3

Do you think any of the Board of Pharmacy's requirements are irrelevant to the competent practice of your company's business?

6 Yes 15 No 3 Unknown 1 No Opinion

Question #4

Are you adequately informed by the Board of Pharmacy of changes to and interpretations of board positions, policies, rules and laws?

19 Yes 2 No 2 Unknown 2 No Opinion

Question #5

Do you utilize the Board of Pharmacy's online renewal system?

22 Yes 3 No

If yes, are you satisfied with the process?

21 Yes 1 No

If not satisfied, what problems have you experienced?

1. "Tried to renew online on Dec. 31, but could not complete final step due to my Macintosh computer not being supported. No one knew of the problem until 2 weeks later when I contacted the Board of Pharmacy to find out about the status of my online renewal, fined over $1500."

Question #6

Has the Board of Pharmacy performed your licensing and/or renewal in a timely manner?

24 Yes 1 No 0 No Opinion

Question #7

What do you think is the most significant issue(s) currently facing your company's business in Alabama and what is the Board of Pharmacy doing to address the issue(s)?

1. "The most significant issue is third party Part-D reimbursement."
2. "Over-regulation; some rules that we made are just too detailed."
3. "Shortage of pharmacists, don't know of anything the Board can do about this."
4. "Controlled substance abuse by consumers. They have partnered with the Alabama Department of public health in establishing the"
5. "Pricing and insurance."
6. "Too harsh with minor judgments against legitimate and ethical pharmacists while at the same time letting known thefts/drug abuse go unpunished."
7. "Billing for DUR and such."
8. "Requiring community pharmacies to get accredited is going to be prohibitively expensive and time consuming. Even if the Board of Pharmacy understands our plight, I don't know that the Board could make CMS understand (or care)."
9. "FDA interference with compounding, continuing reimbursement cuts."
10. "Prescription drug abuse/misuse, reckless prescribing by doctors. C.S.R.S. might be a way of reducing both problems."
11. "Mail order pharmacies, do not know if anything is being done."
12. "Not being able to address the abuse of methadone by prescribers in conjunction with other controlled drugs. Ex: seeing Rx for 400 methadone and 120 xanex <*illegible*>.
13. "Mail order, not sure."
14. "The insurance industry, I don't know."
15. "Doctor shopping, implement controlled substance reporting."
16. "Insurance dictates the way we can practice pharmacy. The Board does nothing to protect its pharmacy."
17. "Unfair take it or leave it "contracts" forced on us by PBMs is the most significant issue facing us today. If this continues, the Board will not have to worry about us. I don't know if the Board can address this."
18. "Reimbursement proposal to use Amp instead of AWP that could put pharmacies out of business. I haven't seen the Board do anything about this all."
19. "Determining the true cost of a drug and paying pharmacists and others a realistic price for their work."

Question #8

Do you think the Board of Pharmacy and its staff are satisfactorily performing their duties?

19 Yes 1 No 3 Unknown 2 No Opinion

Question #9

Has any member of the Board of Pharmacy or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

1 Yes 24 No 0 Unknown 0 No Opinion

Pharmacy (Hospital)

Questionnaires were mailed to eight licensees. Seven responded.

Question #1

Do you think regulation of your company's business by the Board of Pharmacy is necessary to protect public welfare?

6 Yes 1 No 0 Unknown 0 No Opinion

Question #2

Do you think any of the Board of Pharmacy's laws, rules, and policies are an unnecessary restriction on the practice of your company's business?

3 Yes 4 No 0 Unknown 0 No Opinion

Question #3

Do you think any of the Board of Pharmacy's requirements are irrelevant to the competent practice of your company's business?

4 Yes 3 No 0 Unknown 0 No Opinion

Question #4

Are you adequately informed by the Board of Pharmacy of changes to and interpretations of board positions, policies, rules and laws?

5 Yes 0 No 1 Unknown 1 No Opinion

Question #5

Do you utilize the Board of Pharmacy's online renewal system?

6 Yes 1 No

If yes, are you satisfied with the process?

6 Yes 0 No

If not satisfied, what problems have you experienced?

Question #6

Has the Board of Pharmacy performed your licensing and/or renewal in a timely manner?

7 Yes 0 No 0 No Opinion

Question #7

What do you think is the most significant issue(s) currently facing your company's business in Alabama and what is the Board of Pharmacy doing to address the issue(s)?

1. "Medication safety and updating out-of-date rules and regulations." *"Not sure."*
2. "Fair compensation for services rendered?"
3. "Ptech education: formal education for ptech training – 2 yrs. or more. Tele-pharmacy: brain child of non-health care administrative bodies. The value of a pharmacist cannot be obtained from a distance. Board of Pharmacy needs to develop trust and the attitude of big brother, lose the attitude of "do what we say without question, or else."
4. "Third party reimbursement rates." *"Nothing that I am aware."*
5. "Hospital specific rules or Hospital Pharmacy Practice Act. Pharmacist/physicians work practice agreements."
6. "Abuse of CII medications (control) by multiple prescribing physicians (more of a retail issue)."

Question #8

Do you think the Board of Pharmacy and its staff are satisfactorily performing their duties?

7 Yes 0 No 0 Unknown 0 No Opinion

Question #9

Has any member of the Board of Pharmacy or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

0 Yes 7 No 0 Unknown 0 No Opinion

Pharmacy (Nuclear)

Questionnaires were mailed to one licensee. One responded.

Question #1

Do you think regulation of your company's business by the Board of Pharmacy is necessary to protect public welfare?

1 Yes 0 No 0 Unknown 0 No Opinion

Question #2

Do you think any of the Board of Pharmacy's laws, rules, and policies are an unnecessary restriction on the practice of your company's business?

0 Yes 1 No 0 Unknown 0 No Opinion

Question #3

Do you think any of the Board of Pharmacy's requirements are irrelevant to the competent practice of your company's business?

0 Yes 1 No 0 Unknown 0 No Opinion

Question #4

Are you adequately informed by the Board of Pharmacy of changes to and interpretations of board positions, policies, rules and laws?

__1__ Yes __0__ No __0__ Unknown __0__ No Opinion

Question #5

Do you utilize the Board of Pharmacy's online renewal system?

__1__ Yes __0__ No

If yes, are you satisfied with the process?

__1__ Yes __0__ No

If not satisfied, what problems have you experienced?

Question #6

Has the Board of Pharmacy performed your licensing and/or renewal in a timely manner?

__1__ Yes __0__ No __0__ No Opinion

Question #7

What do you think is the most significant issue(s) currently facing your company's business in Alabama and what is the Board of Pharmacy doing to address the issue(s)?

1. "Third party payors and mail-order pharmacies."

Question #8

Do you think the Board of Pharmacy and its staff are satisfactorily performing their duties?

__1__ Yes __0__ No __0__ Unknown __0__ No Opinion

Question #9

Has any member of the Board of Pharmacy or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

__0__ Yes __1__ No __0__ Unknown __0__ No Opinion

Pharmacy (Medical Oxygen Supplier)

Questionnaires were mailed to nineteen licensees. Ten responded.

Question #1

Do you think regulation of your company's business by the Board of Pharmacy is necessary to protect public welfare?

__7__ Yes __3__ No __0__ Unknown __0__ No Opinion

Question #2

Do you think any of the Board of Pharmacy's laws, rules, and policies are an unnecessary restriction on the practice of your company's business?

__3__ Yes __6__ No __0__ Unknown __1__ No Opinion

Question #3

Do you think any of the Board of Pharmacy's requirements are irrelevant to the competent practice of your company's business?

__1__ Yes __6__ No __1__ Unknown __2__ No Opinion

Question #4

Are you adequately informed by the Board of Pharmacy of changes to and interpretations of board positions, policies, rules and laws?

__3__ Yes __3__ No __2__ Unknown __2__ No Opinion

Question #5

Do you utilize the Board of Pharmacy's online renewal system?

5 Yes 5 No

If yes, are you satisfied with the process?

5 Yes 0 No

If not satisfied, what problems have you experienced?

Question #6

Has the Board of Pharmacy performed your licensing and/or renewal in a timely manner?

9 Yes 0 No 1 No Opinion

Question #7

What do you think is the most significant issue(s) currently facing your company's business in Alabama and what is the Board of Pharmacy doing to address the issue(s)?

1. "Maintaining the public image as a professional resource and medical care provider. Retail chain pharmacies have lowered this perception greatly over the years, with public expectation focused on efficiency/ expense, not service. Either the Board needs to reel in/crack down on chains, or create policies that would encourage pharmacists to run/operate or substantially control the pharmacy operation of a "pharmacy". Otherwise, why not put pharmacists under the control of the ABC board."
2. "Feel that a mail order pharmacy needs licensed pharmacist but may not require 20 hours per week."

Question #8

Do you think the Board of Pharmacy and its staff are satisfactorily performing their duties?

7 Yes 0 No 2 Unknown 1 No Opinion

Question #9

Has any member of the Board of Pharmacy or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

0 Yes	10 No	0 Unknown	0 No Opinion

Manufacturers/Wholesalers/Distributors/Mail Order Firms

Questionnaires were mailed to one hundred licensees. Forty-eight responded.

Question #1

Do you think regulation of your company's business by the Board of Pharmacy is necessary to protect public welfare?

43 Yes	5 No	0 Unknown	0 No Opinion

Question #2

Do you think any of the Board of Pharmacy's laws, rules, and policies are an unnecessary restriction on the practice of your company's business?

13 Yes	30 No	2 Unknown	3 No Opinion

1. "Yes, The Department of Public Health prescription drug monitoring program is very time consuming for small pharmacies. I am uncertain which entity initiated the program as the Pharmacy Board now monitors compliance."
2. "No, not unnecessary restriction, except that some regulations do not allow the pharmacists to exercise their best, professional, and educated judgment without fear of violating some obscure regulation."
3. "Yes, board interviews are unnecessary for licensure for new graduates. Why is it necessary to maintain 2 separate Rx files based on class? (this federal as well)"
4. "Yes, since we only manufacture / <*illegible*> medical gas products, the regulations are <*illegible*> a pharmaceutical company."

Question #3

Do you think any of the Board of Pharmacy's requirements are irrelevant to the competent practice of your company's business?

__11__ Yes __35__ No __0__ Unknown __2__ No Opinion

1. "No, should have had a blank area to check for "sometimes."
2. "Yes, since we only are a medical gases company the regulations are too inclusive as a pharmaceutical business."

Question #4

Are you adequately informed by the Board of Pharmacy of changes to and interpretations of board positions, policies, rules and laws?

__22__ Yes __15__ No __7__ Unknown __4__ No Opinion

1. "Yes, <*illegible*> E-mail of new policies and rules would be helpful."
2. "No, Somewhat."

Question #5

Do you utilize the Board of Pharmacy's online renewal system?

__36__ Yes __12__ No

If yes, are you satisfied with the process?

__36__ Yes __0__ No

If not satisfied, what problems have you experienced?

Question #6

Has the Board of Pharmacy performed your licensing and/or renewal in a timely manner?

__47__ Yes __0__ No __1__ No Opinion

Question #7

What do you think is the most significant issue(s) currently facing your company's business in Alabama and what is the Board of Pharmacy doing to address the issue(s)?

1. "Simplification and clarification of regulations."
2. "No current difficulties that the Board is involved in."
3. "Competitive bidding; ensuring that everyone follows all codes and guidelines."
4. "Pedigree laws and variations within each state government."
5. "AMP? Mail-order?"
6. "I do not think medical oxygen requires oversight by the Board of Pharmacy."
7. "Reimbursement from Med-D programs and the Board is not responsible for this."
8. "Reimbursement cuts."
9. "Cuts in insurance reimbursements."
10. "Third party reimbursement and DBM in general. I spent more time working with that than I do with drug therapy patient instruction. Board intervention here would be nice."
11. "The issue of whether we should be paid for overtime. Counseling, renewing Rx's etc. Nothing to my knowledge."
12. "No issues at this time."
13. "Overworked pharmacists filling too many prescriptions with too little support staff. Board of Pharmacy has a hard time policing counseling requirements that are often not performed by busy pharmacists."
14. "Mail order Rx – I think it is more of a legislative issue and the Board of Pharmacy does understand our problem. How does mail order adequately comply with patient counseling?"
15. "Overworking pharmacist, there should be limits on scrip volume per pharmacist! Job satisfaction and performance and safety are in trouble. Chains will work you too hard asking the unobtainable. It is very sad where the profession is right now. Production, production, production; if I wanted to work in a factory, I could have a job in a sock mill, same job."
16. "FDA intrusion into state regulatory agencies, ambiguity of law, too much room for interpretation versus black and white. Move state credentials for <*illegible*>"
17. "Abuse of controlled substances – AL controlled substance dispensed reporting. Prescriptive authority for pharmacist – I do not feel enough action is taking place in this arena."
18. "VAWD exclusion for medical gases only businesses."
19. "Illegal substitution by pharmacists who refuse to dispense what is written by the physician and no legally <*illegible*>."
20. "Many unlicensed wholesale distributors are selling prescription animal drugs in Alabama without any recourse from the state. This practice prevents ethical distributors from competing on a level market."

Question #8

Do you think the Board of Pharmacy and its staff are satisfactorily performing their duties?

39 Yes 2 No 5 Unknown 2 No Opinion

Question #9

Has any member of the Board of Pharmacy or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

1 Yes 47 No 0 Unknown 0 No Opinion

1. "No, in the form of putting their "leg work" back on these companies instead of the pharmacist. We must adapt and comply with their formulary, claim processing, fee schedule and then <*illegible*> to collect within a reasonable amount of time – almost always at their convenience."

Complainants

Questionnaires were mailed to one hundred complainants. Forty-four responded.

Question #1

Was your complaint filed with the Board of Pharmacy by:

__12__ Mail __17__ Phone __2__ Fax __10__ Other __3__ Unknown

Question #2

Was receipt of your complaint promptly acknowledged?

__41__ Yes __2__ No __1__ Unknown

1. "Yes. The first acknowledgement listed the wrong pharmacy. I called in and they acted like it was no big deal."
2. "Yes. After I wrote to Governor Riley for help in obtaining a response to my complaint. Telephone messages to the Board of Pharmacy were not returned."

If yes, approximately how long after you filed your complaint were you contacted by the Board of Pharmacy?

__14__ Immediately __7__ Within 10 days __5__ Within 20 days

__4__ Within 30 days __6__ More than 30 days __0__ Did not respond

__5__ Unknown

Question #3

Was the employee who responded to your complaint knowledgeable and courteous?

__5__ Knowledgeable __4__ Courteous __23__ Both __5__ Neither __7__ No Response

Question #4

Did the Board of Pharmacy communicate the results of the investigation of your complaint to you?

31 Yes 9 No 3 Unknown 1 No Opinion

1. "Unknown." "They were going to investigate further and get back to us – never happened."
2. "Unknown." "None was done!"
3. "Yes." "The result was that they said it wasn't their problem!"
4. "Yes." "After a year!"
5. "No." "XXXXXXXX contacted me and fixed the problem shortly. I assume they also informed the board."
6. "No Opinion." "I don't recall the board ever contacting me after acknowledging my complaint. However, it was two yeas ago and it has been a difficult time. I may have received an answer."

Question #5

Do you think the Board of Pharmacy did everything it could to resolve your complaint?

25 Yes 14 No 4 Unknown 1 No Opinion

1. "Unknown." "I have no idea in that I did not receive any acknowledgement of letter. I do not know if any action was even taken."
2. "Yes." "But it was curious to me that no action was taken. I know only my side of the story, but a pharmacist who shorts a prescription of a controlled substance (hydrocodone) by 80% it seems to me is either doing something inappropriate or illegal with the rest of the prescription, or is negligent and could be a danger to his customers. At least he was made aware that he would be reported for this – and investigated."
3. "No." "They found nothing wrong."

Question #6

Were you satisfied with your dealings with the Board of Pharmacy?

27 Yes 15 No 1 Unknown 1 No Response

1. "No." "Please advise me of the results as well as any action that was taken on my behalf by an agency that I feel should have worked on my behalf."
2. "No." "Don't consider anything was ever done to resolve the matter."
3. "No." "I leave my house at 6 a.m. everyday (excluding Sat. and Sun.) for work. I return at about 5 or 5:30. The employee called during my work hours. My complaint was I was

given wrong prescription medicine at one time (not generic). At another time, I was given the incorrect dosage. This happened to others using this pharmacy as well. I now use XXXX and am satisfied."

4. "No." "A physician is dispensing illegal substances out of his office. The Pharmacy board did nothing. The Medical Examiner board had a little chat with him and left him alone."
5. "No." "I am truly disappointed with the investigation of my complaint. I believe the investigator did not investigate my complaint with any enthusiasm to discover the violations that was presented to him in my complaint. I can assure you that each and every word of my complaint was true and unbiased. The complaint that I filed consisted of: delivery not transferred a prescription to another pharmacy, putting prescriptions on hold for no reason, removing my personal information from the computer database at the pharmacy, withholding prescription after I paid for it, and control medication was stolen from my prescription. In short, I feel the investigator did not try to discover those violations for what ever reason."
6. "No." "First of all, I hate that it takes so long before anyone does a follow-up. The response letter I got has been thrown away because it was a joke and it took one year, one month after my complaint to get that! The first time I called, I was able to speak to someone that day. I received a form to fill out, that was June 2006. I knew it would take awhile, but that long and on top of that they say they found no wrong doing. The Pharmacy Board is a joke as far as I'm concerned. The pharmacist thought it was amusing, telling me I was "in for a good nap". I took 3 oxy-codon(sp) instead of my medicine. I had to close my office, my mom had to come get me and take me home. I missed two days at work. I woke up sick and dizzy the next morning and stayed in bed that entire day. It's a good thing I didn't have small children to look after. I do know the pharmacy showed concern after I brought in the wrong medicine. They sent someone to XXXXXXXXX's house to get the medicine they gave her in error. She kept one pill so she could find out for sure what it was and the Pharmacy got very upset with her. The way the pharmacist acted with me go to XXXXXXXXXXXXXXXX and have a drug screen done. My doctor ordered the screening and it's in my file. My mom had to drive me to that, too. What makes me so angry is the attitude the pharmacist seemed to have and then I don't know why the Pharmacy Board even bothered. My daughter is a licensed counselor and she said if I had been a "recovering addict", that would have thrown me right back into it. My doctor said if I was a lot older or in bad health, it could have been fatal. I feel writing this letter is probably a waste of time, too. I'm sure you're just "going through the motions." At least I got it off my chest and I tell everyone not to go to XXXXXXXXXX in XXXXXXXXXX. I just hope and pray it doesn't happen to anyone else. They may not be so lucky. Thank you for this chance to vent."
7. "Yes." "All is okay."

APPENDICES

Statutory Authority

TITLE 34. PROFESSIONS AND BUSINESSES.

CHAPTER 23. PHARMACISTS AND PHARMACIES.

ARTICLE 1. GENERAL PROVISIONS.

§ 34-23-1. Definitions. *Current through End of 2007 Regular Session.*

For the purpose of this chapter, the following words and phrases shall have the following meanings:

(1) Association. The Alabama Pharmacy Association.

(2) Board or state board. The Alabama State Board of Pharmacy.

(3) Chemical. Any substance of a medicinal nature, whether simple or compound, obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

(4) Dispense. To sell, distribute, administer, leave with, give away, dispose of, deliver, or supply a drug or medicine to the ultimate user or their agent.

(5) Drugs. All medicinal substances, preparations, and devices recognized by the United States Pharmacopoeia and National Formulary, or any revision thereof, and all substances and preparations intended for external and internal use in the cure, diagnosis, mitigation, treatment, or prevention of disease in man or animal and all substances and preparations other than food intended to affect the structure or any function of the body of man or animal.

(6) Extern. A candidate for licensure as a pharmacist during the time prior to graduation from an accredited college or pharmacy.

(7) Hospital. An institution for the care and treatment of the sick and injured, licensed by the Alabama State Board of Health and authorized to be entrusted with the custody of drugs and medicines, the professional use of drugs and medicines being under the direct supervision of a medical practitioner or pharmacist.

(8) Intern. An individual who is currently licensed by this state to engage in the practice of pharmacy while under the personal supervision of a pharmacist and is satisfactorily progressing toward meeting the requirements for licensure as a pharmacist; or a graduate of an approved college of pharmacy who is currently licensed by the State Board of Pharmacy for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist; or a qualified applicant awaiting examination for licensure.

(9) Legend drug. Any drug, medicine, chemical, or poison bearing on the label the words, "caution, federal law prohibits dispensing without prescription," or similar wording indicating that such drug, medicine, chemical, or poison may be sold or dispensed only upon the prescription of a licensed medical practitioner.

(10) License. The grant of authority by the State Board of Pharmacy to a person authorizing him or her to engage in the practice of pharmacy in this state.

(11) Manufacturer. A person, except a pharmacy, who prepares, derives, produces, compounds, or packages any drug, medicine, chemical, or poison.

(12) Medical practitioner. Any physician, dentist, or veterinarian, or any other person authorized by law to treat, use, or prescribe medicine and drugs for sick and injured human beings or animals in this state.

(13) Medicine. Any drug or combination of drugs that has the property of curing, diagnosing, preventing, treating, or mitigating diseases or that which may be used for those purposes.

(14) Patent or proprietary medicines. Completely compounded nonprescription packaged drugs, medicines, and nonbulk chemicals which are sold, offered, promoted, or advertised by the manufacturer or primary distributor under a trademark, trade name, or other trade symbol, and the labeling of which conforms to the requirements of the Federal Food, Drug, and Cosmetic Act; provided, that this definition shall not include:

a. Drugs which are only advertised and promoted professionally to licensed physicians, dentists, or veterinarians by manufacturers or primary distributors.

b. A narcotic or drug containing a narcotic.

c. A drug the label of which bears substantially either the statements "caution--federal law prohibits dispensing without prescription" or "warning--may be habit-forming".

d. A drug intended for injection.

(15) Permit. The grant of authority by the State Board of Pharmacy to any person, firm, or corporation authorizing the operation of a pharmacy, wholesale drug distributor, repackager, bottler, manufacturer, or packer of drugs, medicines, chemicals, or poisons for medicinal purposes. Nonresident wholesale drug distributors registered with the appropriate agency, in the state in which they are domiciled, and operating in compliance with Prescription Drug Marketing Act standards, shall be allowed to do business in this state. No permit shall be required of any physician licensed to practice medicine for any act or conduct related to or connected with his or her professional practice.

(16) Person. Any individual, partnership, corporation, association, trust, or other entity.

(17) Pharmacist. Any person licensed by the Alabama State Board of Pharmacy to practice the profession of pharmacy in the State of Alabama and whose license is in good standing.

(18) Pharmacy. A place licensed by the Alabama State Board of Pharmacy in which prescriptions, drugs, medicines, medical devices, chemicals, and poisons are sold, offered for sale, compounded, or dispensed, and shall include all places whose title may imply the sale, offering for sale, compounding, or dispensing of prescriptions, drugs, medicines, chemicals, or poisons.

(19) Poison. Any substance other than agricultural products and pesticides which when applied to, introduced into, or developed within the body in relatively small quantities by its inherent chemical action uniformly produces serious bodily injury, disease, or death.

(20) Preceptor. A person who is duly licensed to practice pharmacy in the state and meets the requirements as established by the State Board of Pharmacy.

(21) Prescription. Any order for drug or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, closed circuit television, or other means of communication by a legally competent practitioner, licensed by law to prescribe and administer such drugs and medical supplies intended to be filled, compounded, or dispensed by a pharmacist.

(22) Professional degree. A degree in pharmacy requiring a minimum of five academic years.

(23) Repackager. A person who purchases or acquires from a manufacturer or distributor, a drug, medicine, chemical, or poison for the purpose of bottling, labeling, or otherwise repackaging for sale or distribution. This definition shall not apply to a physician licensed to practice medicine who as a part of his or her professional practice dispenses, administers, sells, or otherwise distributes any drug to a patient.

(24) Sale. Barter, exchange, or gift, or offer of barter, exchange, or gift, and shall include each transaction made by any person, whether a principal, proprietor, agent, servant, or employee.

(25) Wholesale drug distributors. A person engaged in the business of distributing drugs and medicines for resale to pharmacies, hospitals, practitioners, government agencies, or other lawful outlets permitted to sell drugs or medicines. The sale, purchase, or trade of a drug by a retail pharmacy to another retail pharmacy or practitioner, for relief of temporary shortages, is exempt from this definition. Also exempt from this definition shall be (a) intracompany sales, (b) manufacturer and distributor sales representatives who distribute drug samples, (c) charitable organizations distributing to nonprofit affiliates of that organization, (d) certain purchases by hospitals or other health care entities that are members of a group purchasing organization, and (e) the distributors of blood and blood components.

(Acts 1966, Ex. Sess., No. 205, p. 231, § 2; Acts 1991, No. 91-475, p. 860, § 1; Act 98-643, p. 1414, § 1.)

§ 34-23-2. Objects and purposes of chapter. *Current through End of 2007 Regular Session.*

The practice of pharmacy and the management and operation of pharmacies are hereby declared to affect the public health, safety and welfare of the people of Alabama, and thereby subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that only qualified persons compound or dispense prescription drugs and medicines, and that pharmacies be managed in such a manner as to

protect the public, and all provisions of this chapter shall be liberally construed to carry out these objects and purposes.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 1.)

§ 34-23-3. State drug inspectors. *Current through End of 2007 Regular Session.*

Each state drug inspector employed by the board following the passage of this chapter must furnish satisfactory proof to the board that he is a person of good moral character and that in the judgment of the members of the board he has sufficient knowledge of the laws pertaining to the practice of pharmacy and law enforcement to enable him to carry out his duties as an inspector consistent with the provisions of this chapter. Each state drug inspector employed by the board shall serve an apprenticeship of a minimum of six months working with and under the supervision of the Chief Drug Inspector or other inspector designated by the board. Each such inspector, before entering upon his duties, shall post with the State Board of Pharmacy a bond in the amount of $2,000.00 conditioned upon the faithful performance of his duties. Each state drug inspector shall have the power to inspect the medicines and drugs or drug products or domestic remedies which are manufactured, packaged, packed, made, sold, offered for sale, exposed for sale or kept for sale in this state, and for this purpose shall have the right to enter and inspect during business hours any pharmacy or any other place in this state where medicines or drugs or drug products or proprietary medicines are manufactured, packaged, packed, made, sold, offered for sale or kept for sale, whether or not licensed by the State Board of Pharmacy. Each state drug inspector shall be subject to the same restrictions as other officers of the law in regard to search and seizure. They shall report to the board all violations of the laws relating to pharmacy and all rules and regulations of the board. As directed by the board, it shall be the duty of the state drug inspectors to issue citations for violations of such laws, rules or regulations or institute criminal proceedings against persons for such violations. When authorized by the board and where there are specific complaints, the state drug inspector shall have the right to inspect all records, shipping tickets or any other document pertaining to the transfer of drugs or drug preparations, from or to hospitals, pharmacists, wholesale establishments and manufacturers, or any other place or establishment where said preparations of drugs are kept or stored. They shall have the authority to inspect all prescription files, prescription record books, poison registers, exempt narcotic registers and any other records pertaining to the filling and filing of prescriptions. It shall be the duty of the state drug inspector to take possession of all revoked and/or suspended licenses and permits when such licenses and permits are not surrendered voluntarily to the board by the person or pharmacist whose license or permit has been revoked or suspended. Nothing in this chapter shall authorize or require the state drug inspector or state drug inspectors to inspect the offices of doctors of medicine who have duly qualified with the State Board of Medical Examiners.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 7.)

§ 34-23-4. Licensure limited to graduates from approved schools and colleges. *Current through End of 2007 Regular Session.*

The Board of Pharmacy shall consider for licensure graduates from only those schools and colleges of pharmacy which are approved by the board.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 8; Act 2006-296, p. 607, § 1.)

§ 34-23-5. Pharmacists exempt from jury duty. Repealed by Acts 1989, No. 89-235, p. 303, § 6, effective April 6, 1989. *Current through End of 2007 Regular Session.*

§ 34-23-6. Bankruptcy sales, auction sales, etc., of drugs and medicines. *Current through End of 2007 Regular Session.*

In the event of any sale in bankruptcy, at public auction or any other sale except in the normal course of business, the seller shall give written notice of such sale to the board at least one week prior to the day of sale, and a complete and accurate report must be made in writing to the board by the proposed seller within 10 days after such sale showing the names and addresses of the parties to whom any narcotics, exempt narcotics or dangerous drugs have been sold together with an itemized inventory thereof. This section shall not apply to the bona fide sale of a

pharmacy as a business when the board has been notified of such proposed sale.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 30.)

§ 34-23-7. Illegal possession of prescription drugs. *Current through End of 2007 Regular Session.*

Any person found in possession of a drug or medicine limited by law to dispensation by a prescription, unless such drug or medicine was lawfully dispensed, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $1,000.00 and, in addition thereto, may be imprisoned in the county jail for hard labor for not more than one year. This section shall not apply to a licensed pharmacy, licensed pharmacist, wholesaler, manufacturer or his representative acting within the line and scope of his employment, physician, veterinarian, dentist or nurse acting under the direction of a physician, nor to a common carrier or messenger when transporting such drug or medicine in the same unbroken package in which the drug or medicine was delivered to him for transportation.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 31.)

§ 34-23-8. Substitution of drugs or brands of drugs. *Current through End of 2007 Regular Session.*

No person shall dispense or cause to be dispensed a different drug or brand of drug in lieu of that ordered or prescribed without the express permission in each case of the person ordering or prescribing such drug, except as provided below:

(1) A licensed pharmacist in this state shall be permitted to select for the brand name drug product prescribed by a licensed physician or other practitioner who is located in this state and authorized by law to write prescriptions, hereinafter referred to as "practitioner," a less expensive pharmaceutically and therapeutically equivalent drug product containing the same active ingredient, or ingredients, and of the same dosage form strength, in all cases where the practitioner expressly authorizes such selection in accordance with subdivision (4) of this section.

(2) A licensed pharmacist located in this state shall be permitted to select for the brand name drug product prescribed by a practitioner who is located in another state or licensing jurisdiction and who is authorized by the laws of that state or jurisdiction to write prescriptions, a less expensive pharmaceutically and therapeutically equivalent drug product containing the same active ingredient or ingredients, and of the same dosage form strength, in all cases where the out-of-state licensed physician or other practitioner does not expressly prohibit a substitution.

(3) A pharmacist shall record on the prescription form the name and manufacturer or distributor of any drug product dispensed as herein authorized.

(4) Every written prescription issued in this state by a licensed practitioner shall contain two signature lines. Under one signature line shall be printed clearly the words "dispense as written." Under the other signature line shall be printed clearly the words "product selection permitted." The practitioner shall communicate instructions to the pharmacist by signing on the appropriate line. The State Board of Pharmacy shall not promulgate any rule or regulation affecting the subject matter of this subdivision.

An oral prescription from the practitioner shall instruct the pharmacist whether or not a less expensive pharmaceutically and therapeutically equivalent drug product may be dispensed. The pharmacist shall note instructions on the file copy of the prescription and retain the prescription form for the period specified by law.

(5) Unless otherwise indicated by the practitioner, the prescription label on the dispensing container shall indicate the actual drug product dispensed, either the brand name, or if none, the generic name; and the name of the manufacturer or a reasonable abbreviation of the name of the manufacturer.

(6) This shall not be interpreted to exclude the use of a formulary or drug list as adopted and approved by a medical staff in a licensed hospital with drugs provided thereunder by procedures established for use within that licensed hospital.

(7) Any person who violates the provisions of this section shall be punished by a fine of up to $1,000.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 18, Acts 1979, No. 79-429, p. 676, § 1; Act 2002-58, p. 144, § 1.)

§ 34-23-9. Purity of drugs dispensed. *Current through End of 2007 Regular Session.*

No person shall compound or sell or offer for sale or cause to be compounded, sold or offered for sale any medicine, drug, poison, chemical or pharmaceutical preparation that is adulterated. Any one of the above-named substances shall be deemed to be adulterated if it is sold by a name recognized in the United States Pharmacopoeia

or National Formulary and it differs from the standard of strength, quality or purity as determined by the test laid down therein unless the label so clearly states, or if its strength, quality or purity shall fall below the professed standard of strength, quality or purity under which it is sold. The board shall examine into any claimed adulteration by using the services of an analyst or chemist of recognized approved standing. Any person violating the provisions of this section shall be guilty of a misdemeanor.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 17.)

§ 34-23-10. Notification by pharmacists of change of employment. *Current through End of 2007 Regular Session.*

Each pharmacist licensed by the board shall notify the board in writing within 10 days on change of employment. The notice shall contain his name, license number, the name of the pharmacy where formerly employed and the name of the pharmacy where currently employed.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 12.)

§ 34-23-11. Physicians, dentists, registered nurses, etc. exempt from chapter. *Current through End of 2007 Regular Session.*

(a) Nothing contained in this chapter shall prevent any licensed practitioner of the healing arts from personally compounding, dispensing, administering, or supplying to his or her patient drugs and medicines for their use. This chapter shall not apply to the manufacture or sale at wholesale or retail of patent or proprietary medicines as purchased from a manufacturer or wholesaler, or to the manufacture or sale at wholesale or retail of packaged, bottled, or nonbulk chemicals, medicines, medical and dental supplies, cosmetics, and dietary foods when identified by and sold under a trademark, trade name, or other trade symbol, privately owned or registered in the United States Patent Office, sold or offered to be sold to the general public, if the article meets the requirements of the Federal Food, Drug, and Cosmetic Act other than prescription legend drugs.

(b) A registered nurse in the employment of the State Health Department or a county health department may, in the provision of health care services, dispense legend drugs as provided in this section under the standing orders or direct supervision of a physician licensed to practice medicine in this state and pursuant to procedures established by the Board of Pharmacy and implemented by a pharmacist licensed to practice pharmacy in this state. The nurse may dispense the legend drugs for the treatment of tuberculosis, sexually transmitted diseases, family planning, hypertension, and other programs if approved by the State Board of Pharmacy. The dispensing of the drugs shall meet all labeling, packaging, recordkeeping, and counseling requirements of a prescription. The Board of Pharmacy shall have the responsibility to inspect the site where the dispensing occurs. The authority granted to a registered nurse pursuant to this subsection shall not apply to controlled substances as defined in Chapter 2 of Title 20.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 32; Acts 1997, No. 97-643, p. 1176, § 1.)

§ 34-23-12. Injunctions against violations of chapter. *Current through End of 2007 Regular Session.*

When it shall appear to the board that any person who is not licensed under the provisions of this chapter is violating any of the provisions of this chapter, the board may in its own name bring an action in the circuit court for an injunction, and said court of this state may enjoin any person from violating the provisions of this chapter regardless of whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 23.)

§ 34-23-13. Penalty for practicing pharmacy without a license; compounding or dispensing prescriptions by unauthorized persons; violations of chapter or rules and regulations of board. *Current through End of 2007 Regular Session.*

Any person who shall practice pharmacy in this state without having first obtained from the board a license, or who permits prescriptions to be compounded and/or dispensed by unauthorized persons; or who violates any of the provisions of this chapter; or who willfully violates any published rule or regulation of the board; or who does any act described in this chapter as unlawful, the penalty for which is not herein specifically provided, shall be guilty of

a misdemeanor and, upon conviction, shall be punished by fine of not more than $1,000.00 for each offense, to be fixed by the court trying said case, and in addition thereto may be, in the discretion of the court trying said case, sentenced to hard labor for the county for a period not to exceed 12 months.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 10.)

ARTICLE 2. LICENSES AND PERMITS.

DIVISION 1. GENERAL PROVISIONS.

§ 34-23-30. Pharmacy permits generally. *Current through End of 2007 Regular Session.*

Every pharmacy, hospital pharmacy, drugstore, pharmacy department, prescription department, prescription laboratory, dispensary, apothecary or any other establishment with a title implying the sale, offering for sale, compounding, or dispensing of drugs in this state shall register biennially and receive a permit from the Board of Pharmacy. Any person desiring to open, operate, maintain, or establish a pharmacy in this state shall apply to the board for a permit at least 30 days prior to the opening of the business. No pharmacy shall open for the transaction of business until it has been registered, inspected, and a permit issued by the board. The application for a permit shall be made on a form prescribed and furnished by the board which when properly executed shall indicate the ownership desiring such permit and the names and license numbers of all licensed pharmacists employed as well as the location of the pharmacy and other information as the board may require. If more than one pharmacy is operated by the same owner, a separate application for registration shall be made and a separate permit issued for each such establishment. All permits issued under this section shall become due on October 31 and shall become null and void on December 31 of even-numbered years. Every application for a permit for a new pharmacy shall be accompanied by a fee to be determined by the board, but the fee shall not be less than one hundred dollars ($100) nor more than two hundred dollars ($200). Every application for a renewal permit shall be accompanied by a fee to be determined by the board, but the fee shall not be less than fifty dollars ($50) nor more than one hundred fifty dollars ($150). Every application for a permit due to transfer of ownership shall be accompanied by a fee to be determined by the board, but the fee shall not be less than fifty dollars ($50) nor more than one hundred fifty dollars ($150). Each application for the renewal of a permit shall be made on or before October 31 of each even-numbered year, at which time the previous permit shall become null and void on December 31 of even-numbered years. A penalty of twenty-five dollars ($25) for each overdue month shall be assessed in addition to the permit fee for renewal of delinquent permits. The secretary of the board shall issue a permit for each pharmacy whose application is found to be satisfactory by the board. Permits issued under this section shall not be transferable. Any change in the control of ownership or licensed pharmacists shall be reported to the board in writing within 10 days of such occurrence. If the pharmacy is owned by a corporation, the permit shall be issued in the name of the corporation. It shall be the duty of the owners of pharmacies who are not licensed pharmacists to immediately notify the board upon the termination of employment of licensed pharmacists and to cause the surrender of permits as indicated. The further operation of the pharmacy in the absence of licensed pharmacists is forbidden; provided, that the nonregistered owner shall have a period of 30 days within which to comply with this provision. The next of kin of any deceased licensed pharmacist owner shall have a period of 30 days within which to comply with the provisions of this chapter, during which time no prescriptions shall be filled unless a licensed pharmacist is on duty. No mail order pharmacy shall transact business in this state without a permit from the board.

Any person who violates this section shall be guilty of a misdemeanor.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 14; Acts 1985, No. 85-702, p. 1151, § 1; Act 2004-450, p. 801, § 1.)

§ 34-23-31. Permits for mail-order houses. *Current through End of 2007 Regular Session.*

Every mail-order house which dispenses drugs or medicines through the United States mail or otherwise from any point in the State of Alabama to any point outside of the State of Alabama, and every such business which dispenses drugs or medicines through the United States mail or otherwise from any point outside of the State of Alabama to any point within the State of Alabama shall obtain a permit from the State Board of Pharmacy as a condition precedent to being qualified and authorized to transact such business in the State of Alabama.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 29.)

§ 34-23-32. Manufacturer, bottler, packer, repackager, or wholesale distributor of drugs. *Current through End of 2007 Regular Session.*

(a) Every manufacturer, bottler, packer, repackager, or wholesale drug distributor, of drugs, medicines, chemicals, or poisons for medicinal purposes shall register biennially with the board by application for a permit on a form furnished by the board and accompanied by a fee to be determined by the board as follows:

(1) The fee shall not be less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) for a new establishment.

(2) The fee shall not be less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) for a renewal permit.

(3) The fee shall not be less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) for a permit due to transfer of ownership.

(b) A holder of a permit shall employ a full-time licensed pharmacist whose principal duty shall be confined to on-premise pharmaceutical operations. Wholesale drug distributors, who strictly limit their operation to distribution of drugs, medicines, chemicals, or poisons for medicinal purposes are exempt from the requirement to employ a full-time licensed pharmacist.

(c) The professional practice of any physician licensed to practice medicine is exempt from the requirements of this section.

(d) All permits issued under this section shall become due on October 31 and shall become null and void on December 31 of even-numbered years. Each application for the renewal of the permit shall be made on or before December 31 of even-numbered years. A penalty of twenty-five dollars ($25) for each overdue month shall be assessed in addition to the permit fee for renewal of delinquent permits. For each application for a permit made and found to be satisfactory by the board, the secretary of the board shall issue to the applicant a permit for such manufacturing or wholesale establishment, which permit shall be displayed in a conspicuous place.

(e) All holders of a permit shall, before shipping any drug bearing the legend, "caution, federal law prohibits dispensing without prescription" or similar wording causing these drugs to be known as legend drugs to new customers, assure themselves that the recipient is either a duly licensed doctor of medicine, dentistry, or veterinary medicine or holds a registered pharmacy permit from the board by contacting the office of the board. No holder of a permit shall ship any legend drug to any person or firm after receiving written notice from the board that the person or firm no longer holds a registered pharmacy permit. Any person violating this section shall be guilty of a misdemeanor.

(Acts 1966, Ex. Sess., No. 205, p. 231, § 24; Acts 1985, No. 85-702, p. 1151, § 1; Acts 1991, No. 91-475, p. 860, § 1; Act 2004-450, p. 801, § 1.)

§ 34-23-32.1. FDA requirements to be adhered to by affected parties. *Current through End of 2007 Regular Session.*

Any requirements established by the FDA Guidelines, as required by the Federal Prescription Drug Marketing Act of 1987 (PDMA), specifically addressed in Sections 34-23-1 and 34-23-32, shall be adhered to by the affected parties.

(Acts 1991, No. 91-475, p. 860, § 2.)

§ 34-23-33. Revocation or suspension of licensed pharmacist, holder of pharmacy intern or extern certificate, permit to operate -- Grounds. *Current through End of 2007 Regular Session.*

The board may revoke, suspend, place on probation, or require remediation for any licensed pharmacist or a holder of a pharmacy intern or extern certificate for a specified time as determined by the board and take the same or similar action against the permit to operate any pharmacy in this state, whenever the board finds by a preponderance of the evidence, or pursuant to a consent decree, that the pharmacist has been guilty of any of the following acts or offenses:

(1) Obtaining the license to practice pharmacy or the permit to operate a pharmacy by fraudulent means.

(2) Violation of the laws regulating the sale or dispensing of narcotics, exempt narcotics or drugs bearing the label "caution, federal law prohibits dispensing without prescription," or similar wording which causes the drugs to be classified as prescription legend drugs.

(3) Conviction of a felony. A copy of the record of the conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

(4) Conviction of any crime or offense that reflects the inability of the practitioner to practice pharmacy with due regard for the health and safety of the patients.

(5) Inability to practice pharmacy with reasonable skill and safety to patients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals or any other substance, or as a result of any mental or physical condition.

When the issue is whether or not a pharmacist is physically or mentally capable of practicing pharmacy with reasonable skill and safety to patients, then, upon a showing of probable cause to the board that the pharmacist is not capable of practicing pharmacy with reasonable skill and safety to patients, the board may require the pharmacist in question to submit to a psychological examination by a psychologist to determine psychological status or a physical examination by a physician, or both, to determine physical condition. The psychologist or physician, or both, shall be designated by the board. The expense of the examination shall be borne by the board. Where the pharmacist raises the issue of mental or physical competence or appeals a decision regarding his or her mental or physical competence, the pharmacist shall be permitted to obtain his or her own evaluation at the pharmacist's expense. If the objectivity or adequacy of the examination is suspect, the board may complete the examination by the designated practitioners at its own expense. When mental or physical capacity to practice is at issue, every pharmacist licensed to practice pharmacy in the state shall be deemed to have given consent to submit to a mental or physical examination or to any combination of the examinations and to waive all objections to the admissibility of the examination, or to previously adjudicated evidence of mental incompetence.

(6) Gross malpractice or repeated malpractice or gross negligence in the practice of pharmacy.

(7) Violation of any provisions contained in this chapter.

(8) Employing, assisting or enabling in any manner any unlicensed person to practice pharmacy.

(9) The suspension, revocation, or probation by another state of a license to practice pharmacy. A certified copy of the record of suspension, revocation, or probation of the state making such a suspension, revocation, or probation shall be conclusive evidence of the suspension, revocation, or probation.

(10) Refusal to appear before the board after having been ordered to do so in writing by the executive officer or chair of the board.

(11) Making any fraudulent or untrue statement to the board.

(12) Violation of any rule or regulation of the board.

(13) Violation of the code of professional conduct adopted by the board in the rules and regulations of the board.

(Acts 1966, Ex. Sess., No. 205, p. 231, § 20; Acts 1989, No. 89-235, p. 303, § 3; Acts 1990, No. 90-550, p. 856, § 1; Acts 1995, No. 95-585, p. 1243, § 1.)

§ 34-23-34. Revocation or suspension of licenses to practice pharmacy and pharmacy permits -- Statement of charges and notice of hearing. *Current through End of 2007 Regular Session.*

No action to revoke or suspend the license of any pharmacist or the permit to operate any pharmacy in this state shall be taken until the licensee or holder of such permit has been furnished a statement in writing of the charges against him together with a notice of the time and place of hearing. The statement of charges and notice shall be served upon such a person at least 30 days before the date fixed for said hearing, either personally or by registered or certified mail sent to his last known post-office address. The burden of proof shall be on the board.

(Acts 1966, Ex. Sess., No. 205, p. 231, § 21.)

DIVISION 2. PHARMACISTS' LICENSES.

§ 34-23-50. Required. *Current through End of 2007 Regular Session.*

(a) It shall be unlawful for any person, firm or corporation to practice pharmacy in this state or to permit prescriptions to be compounded and/or dispensed by persons other than those duly licensed by the board to practice pharmacy in this state; provided, that any person who holds a professional degree in pharmacy from a school of pharmacy recognized by the board who is serving his or her internship under the immediate direct supervision of a pharmacist on the premises registered by the board and any person who is enrolled in a school of pharmacy recognized by the board working under the immediate and direct supervision of a pharmacist on the premises

registered by the board pursuing his or her education as a pharmacist shall be permitted to compound and/or dispense prescriptions. In order to be considered enrolled in a school of pharmacy and pursuing his or her education as a pharmacist, a person shall not be absent from the school of pharmacy for more than two consecutive semesters or three consecutive quarters, dependent upon the system in use in the school of pharmacy. Any bona fide resident of this state who shall furnish proof to the board in person by affidavits from two pharmacists licensed by the State Board of Pharmacy, neither of whom shall be related to the applicant by blood or marriage, within a period of 90 days subsequent to August 26, 1966, establishing the fact that he or she has filled prescriptions under the supervision of a licensed pharmacist over a period of at least 15 successive years next preceding the offer of such proof shall be issued an assistant's certificate which will authorize the person to practice pharmacy in this state; provided, that the person shall be under the supervision of a licensed pharmacist at all times, and such person shall be subject to all of the provisions of this chapter governing the practice of pharmacy in this state, including, but not limited to, the revocation or suspension of such certificate for violations of the provisions of this chapter; and provided further, that such person shall pay an original registration fee to be determined by the board, but the fee shall not be less than twenty-five dollars ($25) nor more than fifty dollars ($50) upon the issuance of such certificate, and the renewal fee to be determined by the board, but the renewal fee shall not be less than twenty-five dollars ($25) nor more than one hundred fifty dollars ($150) as provided in this chapter. As used in the preceding sentence, the term "supervision" shall be construed to mean that the supervising licensed pharmacist shall be either personally present or on call and available for consultation at all times, or a licensed pharmacist designated by the supervising licensed pharmacist shall be either personally present or on call and available for consultation at all times.

(b) Notwithstanding Section 20-2-51 or any other law to the contrary, each person licensed by the board to practice pharmacy may distribute or dispense controlled substances during the biennial period for which the person is licensed.

(Acts 1966, Ex. Sess., No. 205, p. 231, § 9; Acts 1985, No. 85-702, p. 1151, § 1; Act 2005-57, p. 84, § 3.)

§ 34-23-51. Application for license; qualifications of applicants; examination of applicants; license by reciprocity. *Current through End of 2007 Regular Session.*

Every person who desires to practice pharmacy within this state shall file with the secretary of the board his or her written application for licensure upon forms furnished by the board not less than 10 days prior to his or her examination. The application shall be accompanied by an examination and registration fee for residents and nonresidents of this state, the fees to be set by the board. The application shall be accompanied by two recent photographs of the applicant, no larger than 2 1/2 x 3 1/4 inches and certified on the back of each photograph by a notary public. The applicant shall furnish satisfactory proof that he or she is at least 19 years of age, of good moral character, and that he or she holds a professional degree from a division, school, college, or a university department of pharmacy recognized by the State Board of Pharmacy. The applicant shall have completed an approved practical training program under the supervision of a licensed pharmacist in a site recognized by the board as qualified for training pharmacy externs and interns, the training standards to be established by the board as long as the standards are not less than those set by the National Association of Boards of Pharmacy. The completion of the practical training requirements shall be attested by affidavit from the licensed pharmacist preceptor under whom the training is served. The applicant shall pass an examination administered by the board in subjects consistent with those required by the National Association of Boards of Pharmacy and in accordance with the rules and regulations of the board. In case of failure of a first examination, the applicant shall have within three years the privilege of a second and third examination. In case of failure in the third examination, the applicant shall be eligible for only one additional examination and this only after he or she has satisfactorily completed additional preparation as directed and approved by the board. An applicant may be admitted to the examination provided all of the foregoing requirements are met, and in addition, that affidavits attesting to the prescribed practical training program have been presented to the secretary prior to the examination. An application for examination by the board may be denied if the applicant is proven to have been involved in any violation of this chapter. An applicant who has been expelled from an examination for cribbing, cheating, or other dishonest conduct shall not be permitted to complete the examination applied for and shall not be permitted to file a new application for examination during the balance of the same calendar year or the calendar year next following the expulsion. The board may issue a license without examination to an applicant who furnishes satisfactory proof that he or she has been licensed to practice pharmacy by examination in another state that under like conditions grants reciprocal licensure without examination to pharmacists duly licensed by examination in this state, that he or she is a person of good moral character and temperate habits, and provided that the requirements in the state from which the applicant is reciprocating were no less than the requirements of the National Association of Boards of Pharmacy. The application shall be

accompanied by a fee set by the board. Each applicant for licensure by reciprocity shall be personally interviewed by two or more members of the board before being granted a license, and the applicant shall pass a written examination on the laws governing the practice of pharmacy in this state. The applicant shall be approved for reciprocity by the board prior to the time that he or she begins the duties of a licensed pharmacist in this state. No applicant shall be granted reciprocal licensure unless all evidence and supporting documents of licensure in the state from which the applicant is reciprocating are approved as meeting the requirements for reciprocity of the National Association of Boards of Pharmacy. The board shall set and collect a fee for submitting and certifying grades for reciprocity in other states.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 11; Acts 1975, 3rd Ex. Sess., No. 147, p. 393; Acts 1989, No. 89-235, p. 303, § 3; Act 98-643, p. 1414, § 1.)

§ 34-23-52. Expiration and renewal of certificate; continuing education. *Current through End of 2007 Regular Session.*

(a) All certificates of licensure shall expire on December 31 of even- numbered years. Every licensed pharmacist in order to continue to be licensed shall pay a biennial renewal fee to be determined by the board, but the fee shall not be less than twenty-five dollars ($25) nor more than one hundred fifty dollars ($150) to the secretary of the board, the fee being due on October 31 and delinquent after December 31 of even-numbered years except, that holders of life certificates to practice pharmacy previously issued shall not be required to pay a renewal fee. The payment of the renewal fee shall entitle the registrants to renewal of their certificates at the discretion of the board. If any pharmacist shall fail to pay a renewal fee on or before the due date, the holder of the certificate may be reinstated as a licensed pharmacist only upon payment of a penalty of ten dollars ($10) for each lapsed month and all lapsed fees, provided the lapsed time of registration shall not exceed five years, in which case reinstatement may be had only upon satisfactory examination by the board.

(b) In addition to any fee requirements, each pharmacist is required to complete 15 hours of continuing education per calendar year, of which three hours shall be live presentation.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 13; Acts 1985, No. 85-702, p. 1151, § 1; Act 2004-450, p. 801, § 1.)

§ 34-23-53. Training program for candidates for licensure. *Current through End of 2007 Regular Session.*

Candidates for licensure as pharmacists shall complete a practical training program as prescribed by the board in keeping with standards established by the national accreditation agencies. The candidate shall apply to the board for proper reporting forms and shall ascertain that the preceptor under whom he or she proposes to take his or her practical training is a qualified preceptor. The candidate shall receive credit for experience gained only in an approved site under the supervision of an approved preceptor. The candidate must keep records as prescribed by the board of all professional experience gained, and upon request, must report to the board and furnish information relative to the practical experience gained. The board may accept internship affidavits from other states, provided the internship requirements are no less than requirements of the National Association of Boards of Pharmacy.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 27; Acts 1975, 3rd Ex. Sess., No. 147, p. 393; Act 98-643, p. 1414, § 1.)

ARTICLE 3. PHARMACIES.

§ 34-23-70. Management; display of permit and license; poisons; prescriptions generally; physicians not restricted by chapter. *Current through End of 2007 Regular Session.*

(a) Every pharmacy when opened for business shall be under the personal supervision of a duly licensed pharmacist who shall have personal supervision of not more than one pharmacy at the same time. During temporary absences of the licensed pharmacist, not to exceed three hours daily or more than one and one-half hours at any one time, nor more than one week for temporary illness, the prescription department shall be closed, and no prescriptions are to be filled. During the temporary absence of a pharmacist, a sign shall be placed on the prescription counter in a prominent location easily seen by the public stating, "Prescription Department Closed, No Pharmacist on Duty."

(b) The permit issued to each pharmacist by the board and the licensure certificates issued to the licensed pharmacist employed by each pharmacy must be prominently and conspicuously displayed in the pharmacy. The name of the licensed pharmacist on duty must be conspicuously displayed in the prescription department in a place

readily observable by the public.

(c) No licensed pharmacist or pharmacy operating within this state shall accept for refund purposes or otherwise any unused portion of any dispensed prescription.

(d) The sale of poisons is restricted to the immediate supervision of a licensed pharmacist, and such poison shall not be displayed in a pharmacy in such a manner that a customer may obtain possession of such poisons when standing in an area allocated for customer use. No sale of a poison shall be made or delivered to any minor under 12 years of age or to any person known to be of unsound mind or under the influence of alcohol.

(e) No pharmacy shall authorize any person, firm or business establishment to serve as a pick-up station or intermediary for the purpose of having prescriptions filled or delivered, whether for profit or gratuitously.

(f) No prescription blank supplied by a pharmacy or pharmacist to a practitioner shall bear the imprint thereon of the name or address of any pharmacy or bear the name or address of any person registered under this chapter.

(g) No person shall fill or compound a prescription or drug order in an institution unless he is a duly licensed pharmacist or otherwise permitted to do so under the provisions of this chapter. The act of filling or compounding prescriptions or drug orders in an institution shall be as defined in the rules and regulations adopted by the Board of Pharmacy.

However, such rules and regulations shall not apply to the reading, interpreting and writing or verifying the writing of adequate directions as are necessary to assure patient's understanding of the prescriber's intentions by a duly qualified nurse practicing her/his profession in a licensed hospital or similar institution.

Nothing in this chapter shall authorize the Board of Pharmacy to promulgate or to enforce any rule or regulation which governs, regulates or restricts the professional practice of a physician licensed to practice medicine in this state. No provision of this chapter, or any rule promulgated under the authority of this chapter shall be interpreted to amend, alter or modify the provisions of Section 34-23-11.

(h) Only a licensed pharmacist or registered intern may accept an oral prescription of any nature. Upon so accepting such oral prescription, it must immediately be reduced to writing, and only a licensed pharmacist or an intern supervised by a licensed pharmacist may prepare a copy of a prescription or read a prescription to any person for purposes of providing reference concerning treatment of the person or animal for whom the prescription was written; and, when said copy is given, a notation shall be made upon the prescription that a copy has been given, the date given and to whom given.

(i) If a prescription is refilled, a record of the date upon which the prescription is refilled must appear on the prescription or in a permanent prescription record book. On prescriptions which may be refilled, written or oral authorization must be received before refilling unless the number of refills is indicated on the original prescription. Those prescriptions marked "refill prn" or equivalent designation shall be refilled only in quantities commensurate with the dosage scheduled.

(j) Each prescription must be written in a manner so that it can be compounded by any registered pharmacist. The coding of any prescription is in violation of this chapter. No prescription shall be written in any characters, figures or ciphers, other than in the English or Latin language, generally in use among medical and pharmaceutical practitioners.

(k) A prescription file or files shall be kept by every pharmacy for a period of not less than two years in which the original of every prescription compounded or dispensed shall be filed in the order of compounding with number and date of dispensing placed on each prescription. Each pharmacy shall produce any prescription file whenever legally required to do so. Such prescription file shall at all times be open for inspection by the prescriber, the Board of Pharmacy or its inspectors.

(l) All drugs or drug preparations bearing upon the package the words, "caution, federal law prohibits dispensing without prescription" or words to the same effect, otherwise known as "legend drugs," shall be stored within the confines of the prescription department or the prescription department storage room of each pharmacy. Such drugs shall be sold or dispensed only on the prescription of a licensed practitioner authorized to prescribe such drugs and shall not be sold or dispensed as a refilled prescription except upon the express authorization of the prescriber. This shall not be construed to prohibit return to authorized suppliers or sale or transfer to others licensed to possess legend drugs.

(m) Any person who violates any of the provisions of this section shall be guilty of a misdemeanor.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 15; Acts 1989, No. 89-747, p. 1513, § 1.)

§ 34-23-71. Requirements for prescription rooms. *Current through End of 2007 Regular Session.*

Any new pharmacy or any existing pharmacy which is to be remodeled or which is to be moved to a new location other than a hospital pharmacy must comply with the following requirements for the prescription room

area: That portion or part of the entire licensed pharmacy which is to be occupied by the prescription compounding or dispensing department, including that portion or part thereof utilized for the sale of restricted drugs, shall be not less than 240 square feet. The surface of the prescription compounding counter shall be not less than 24 inches in width and not less than 16 square feet of unobstructed working space for one pharmacist and not less than 24 square feet of total working space where two or more pharmacists are to be on duty at any one time. The aisle space or floor area to be occupied by a dispensing pharmacist shall extend the full length of the prescription compounding counter, and it shall be clear and unobstructed for a minimum distance of 36 inches from the working side of the prescription compounding counter.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 16.)

§ 34-23-72. Internship training sites. *Current through End of 2007 Regular Session.*

Every site approved by the State Board of Pharmacy for intern training shall be managed so that the intern is provided with ample opportunity to meet the training requirements established by the board. The site must have in its employ, or have an arrangement with, a pharmacist who is registered as a preceptor. A site which meets these qualifications may be approved for internship training by the board.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 25; Act 98-643, p. 1414, § 1.)

§ 34-23-73. Preceptor qualifications. *Current through End of 2007 Regular Session.*

Every pharmacist serving as a preceptor shall have expressed a willingness to serve as a preceptor. Pharmacist preceptors shall be approved by the board and shall be willing to cooperate with the board in developing the necessary training requirements and shall provide appropriate documentation to the board. Each preceptor shall certify as to the commencement and completion of the training period and may make recommendations to the board concerning the competency of his or her trainee. The preceptor shall report to the board from time to time as requested on the progress of any intern or extern under his or her supervision. It shall be his or her responsibility in a supervisory capacity to see that each intern or extern receives proper training under the objectives of the board for this practical training program.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 26; Act 98-643, p. 1414, § 1.)

§ 34-23-74. Hospitals and related institutions. *Current through End of 2007 Regular Session.*

Every pharmacy located in a hospital, skilled nursing home, or other related institution in this state shall be under the supervision of a licensed pharmacist. In general hospitals, skilled nursing homes, and extended care facilities not operating a pharmacy, the drug or medicine room shall be under the direct supervision and direction of a consulting pharmacist or a member of the medical staff who shall be a licensed practitioner of medicine. In nursing homes which are not classified by the State Board of Health as skilled nursing homes, maternity homes, homes for the aged, domiciliary institutions, and all related institutions except those operated by and in conjunction with a licensed hospital, medicines or drugs bearing the wording on the label "caution, federal law prohibits dispensing without prescription" or similar wording that causes the medicines or drugs to be known as prescription legend drugs shall be furnished by a licensed pharmacy on the prescription of a licensed practitioner of medicine for individual patients, and there shall be no prescription legend drugs on the premises of these institutions other than those so prescribed except an emergency kit as authorized by the State Board of Health. In hospitals and skilled nursing homes using vending machines or mechanical devices for the storage and dispensing of drugs, the machines or devices shall be stocked only under the supervision of a licensed pharmacist, and the drugs may be dispensed from the machine or device only by an individual acting in accordance with established institutional hospital pharmacy policy. The State Board of Pharmacy may at any time adopt such additional rules and regulations consistent with this chapter as may be deemed necessary after advising with the Alabama Society of Hospital Pharmacists in regard to the storage and handling of drugs and medicines and the disposition of unused portion of drugs and medicines in hospitals and other related institutions under this section.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 28; Acts 1995, No. 95-398, p. 819, § 1.)

§ 34-23-75. Emergency prescription refill. *Current through End of 2007 Regular Session.*

In the event a pharmacist receives a request for a prescription refill and the pharmacist is unable to readily obtain refill authorization from the prescriber, the pharmacist may dispense a one-time emergency refill of up to a 72-hour supply of the prescribed medication, providing that:

(1) The prescription is not a medicinal agent listed in Schedule II appearing in Title 20, Chapter 2.

(2) The medication is essential to the maintenance of life or the continuation of therapy in a chronic condition. Only those drugs designated by a joint rule adopted by the Board of Pharmacy and Board of Medical Examiners shall be refilled, according to the procedure established in this section.

(3) The dispensing pharmacist creates a written order containing all of the prescription information required by this chapter and Title 20, Chapter 2.

(4) The dispensing pharmacist notifies the prescriber of the emergency dispensing within 72 hours after such dispensing.

(Acts 1991, No. 91-554, p. 1023, § 1.)

ARTICLE 4. BOARD OF PHARMACY.

§ 34-23-90. Authority; composition. *Current through End of 2007 Regular Session.*

(a) The Alabama State Board of Pharmacy is vested with the authority to carry out the purposes of and enforce this chapter. The board shall consist of five members. The members of the board shall be licensed pharmacists who have been licensed in this state for a minimum of five years and who are actively engaged in the practice of pharmacy or pharmacy administration, or both.

(b) Three members shall be appointed by the Governor. Of the three appointed members, one member shall be engaged in the practice of pharmacy, or pharmacy administration, or both, in a hospital, one in an independent pharmacy, and one in a chain pharmacy. On or before August 1, 1996, and each five years thereafter, or whenever a vacancy occurs in the designated position for hospital pharmacists, the Alabama Society of Health System Pharmacists, or its successor organization, shall submit a list of three nominees to the Governor. On or before August 1, 1994, and each five years thereafter, or whenever a vacancy occurs in the designated position for a chain pharmacist, the Alabama Pharmacy Association, or its successor organization, shall submit a list of three nominees to the Governor. On or before August 1, 1997, and each five years thereafter, or whenever a vacancy occurs in the designated position for the independent pharmacist, the independent pharmacist members of the Alabama Pharmacy Association, or its successor organization, shall submit a list of three nominees to the Governor. From the names submitted to the Governor, the Governor shall appoint a replacement on or before December 31 of the same year the nominations are received, for the member or members whose term or terms are expiring. Background information shall be provided for each nominee for an appointed position.

(c) On or before December 1, 1995, and each five years thereafter, and on or before December 1, 1998, and each five years thereafter, or whenever a vacancy occurs in a nondesignated position, the Board of Trustees of the Alabama Pharmacy Association, or its successor organization, shall select a committee of five pharmacists who are members of the association to serve as a nominating committee. No one on the committee shall be a candidate. The committee shall receive names of pharmacists actively engaged in pharmacy practice or administration, or both, from companies and individuals, and shall narrow the list of nominees to two names to be placed on a ballot to be voted on by all Alabama pharmacists. The election procedure for a nondesignated slot shall be as follows: Each candidate shall provide a biographical sketch of not more than 150 words, which shall include his or her most recent practice experience. The board shall mail election ballots and a biographical sketch of the candidates to Alabama licensed pharmacists by September 1. Completed ballots returned to the board postmarked by October 1 shall be tabulated. A pharmacist receiving a majority of the ballots received shall be considered the winner. If a runoff election is necessary, the runoff ballots shall be mailed to licensed pharmacists by November 1 and returned postmarked by December 1. A canvassing committee consisting of a representative from the Alabama Pharmacy Association, or its successor organization, Alabama Society of Health System Pharmacists, or its successor organization, Auburn University School of Pharmacy, and Samford University School of Pharmacy shall tabulate the ballots.

(d) Any vacancies occurring on the board other than by expiration of term shall be filled by election or appointment only for the unexpired term and shall be filled by the same procedure that the replaced member was elected or appointed. Each member of the board shall serve a term of five years beginning on January 1 following

appointment and terminating on December 31 of his or her fifth year as a member of the board.

(e) No pharmacist shall serve two full terms consecutively.

(f) The Governor, upon recommendation of the board, may remove a member of the board upon proven charges of inefficiency, incompetency, immorality, or professional misconduct. The replacement member shall be elected or appointed by the same procedure that the removed member was elected or appointed. Appointees to the board shall within 30 days after their appointment or election take an oath or make affirmation before a properly qualified officer that they will faithfully and impartially perform the duties of their office. This oath or affirmation shall be filed with the Secretary of State. At its last regular meeting in each calendar year, the board shall organize by electing for a term of one year, effective the following January 1, a president, a vice-president, and a treasurer who shall be members of the board. No member shall serve more than two years in the same office on the board during a five-year term. The board shall also elect a secretary who shall not serve as a member of the board and the board shall have the authority to fix the amount of the secretary's remuneration. If a board member is selected as secretary, the board member shall resign from the board and a replacement on the board shall be selected by the same procedure by which the resigned member was originally elected or appointed. The secretary shall not be employed during the service by any registrant of the board.

(g) For the purpose of this section, a chain pharmacy shall be defined as any retail pharmacy employing in Alabama a minimum of 40 full-time equivalent pharmacists. A chain pharmacist is defined as a pharmacist employed on a full-time basis by a chain pharmacy for a minimum of three years.

(h) It is the intent of the Legislature that the composition of the board reflect the demographics of the pharmacy profession. For vacancies occurring after March 18, 2005, the nominating organizations and the appointing authorities shall select those persons whose appointments ensure that the membership of the board is inclusive and reflects the racial, gender, geographic, urban/rural, and economic diversity of this state.

(Acts 1966, Ex. Sess., No. 205, p. 231, § 3; Acts 1981, No. 81-810, p. 1448; § 1; Acts 1989, No. 89-235, p. 303, § 3; Acts 1993, No. 93-671, p. 1209, § 3; Act 2001-247, p. 293, § 3; Act 2005-57, p. 84, § 3.)

§ 34-23-91. Duties of officers; bonds of secretary and treasurer; compensation and expenses; meetings; quorum; funds and disbursements; books and records. *Current through End of 2007 Regular Session.*

The president of the board shall preside at all of the board's meetings. The vice-president shall preside in the absence or inability of the president. The secretary of the board shall be the executive officer in charge of the board's office. The secretary shall make, keep, and be in charge of all records and record books required to be kept by the board, including a register containing all information which shall be required under this chapter. The secretary shall attend to the correspondence of the board and perform any other duties the board may require in keeping with the office of secretary. The secretary shall receive and record all fees collected under this chapter and, at regular intervals as ordered by the board, shall pay the fees to the treasurer of the board for its use. The secretary may have any forms printed and office supplies furnished as necessary to implement this chapter. The secretary and treasurer of the board shall each furnish bond in an amount to be fixed by the board and shall be conditioned upon the faithful performance and discharge of their respective official duties. The members of the board shall be paid the same per diem and travel allowance as is paid by law to state employees while engaged in the performance of the duties of the board, in addition to any daily compensation or allowance determined by the board. The board shall conduct meetings at least three times annually and more often when deemed necessary for the examination of applicants for licensure and for the transaction of business as may legally come before it. Public notice of all stated meetings shall be given at least 30 days in advance of the meetings. At all meetings of the board, a majority shall constitute a quorum. The members of the board shall determine the place of meetings of the board. The treasurer of the board shall have custody of all funds derived from the various provisions of this chapter. All disbursements shall be made by check as authorized by vouchers signed by the president and secretary of the board. The books and records of the board as made and kept by the secretary or under his supervision shall be prima facie evidence of the matter therein recorded in any court.

(Acts 1966, Ex. Sess., No. 205, p. 231, § 4; Acts 1971, No. 1952, p. 3171, § 1; Acts 1989, No. 89-235, p. 303, § 3; Acts 1993, No. 93-671, p. 1209, § 3.)

§ 34-23-92. Powers and duties generally. *Current through End of 2007 Regular Session.*

The board shall exercise, subject to the provisions of this chapter, the following powers and duties:

(1) To adopt rules concerning the records and reports to be kept and made by a pharmacy relating to the

filling of prescriptions and the handling and preservation of drugs.

(2) To fix standards and requirements for licenses and permits except as otherwise specified in this chapter.

(3) To make rules and regulations regarding sanitation consistent with state health regulations.

(4) To employ such chemists, agents, clerical help and attorneys necessary for the proper administration of the duties of the board.

(5) To employ a Chief Drug Inspector and other drug inspectors not to exceed six that it deems necessary to enforce the provisions of this chapter which are under the supervision of the board.

(6) To adopt rules and regulations for the administration and enforcement of this chapter and not inconsistent herewith. Such rules and regulations shall be referenced to the section or sections of this chapter which set forth the legislative standard which it interprets or to which it applies. Every such rule and regulation shall be adopted in accordance with the Alabama Administrative Procedure Act. A copy of every rule and regulation containing a requirement of general application shall be mailed to each registered pharmacist at least 10 days before the effective date thereof. The failure of a registered pharmacist to receive a copy of such rule or regulation shall not exempt him from the duty of compliance with the valid rules and regulations lawfully issued.

(7) To investigate violations of this chapter or any other law pertaining to the practice of pharmacy that may come to the knowledge of the board and institute or cause to be instituted before the board or in a proper court appropriate proceedings in connection therewith.

(8) To issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books and records, documentary evidence and materials or other evidence in matters pending before the board relating to the revocation, suspension or probation of any license. Those persons issued subpoenas and compelled to attend hearings or meetings in matters pending before the Board of Pharmacy shall be entitled to witness fees from Board of Pharmacy funds. Claims for witness fees shall be made on accepted State of Alabama voucher forms as appropriate. Travel and mileage expenses shall be reimbursed to witnesses in the amounts officially authorized to the board and its personnel at the time the service to the Board of Pharmacy is performed.

(9) The members of the board shall have the power and authority to administer oaths in connection with the duties of the board.

(10) The board shall make a written report annually of its receipts and disbursements to the Governor and to the State Pharmaceutical Association. Included in this report shall be the names of all registrants licensed to practice under this chapter and a record of all permits issued during the period covered by the report.

(11) It shall be the duty of the board to enforce the provisions of the State Barbiturate Act, the State Amphetamine Act, the State Narcotic Law and all other laws of the state which pertain to the practice of pharmacy, the examination of applicants, the licensing of pharmacists, the manufacture, packaging, repackaging, production, sale or distribution of drugs, chemicals and poisons, and all laws pertaining to standards for their strength and purity. The board may work in conjunction with other law-enforcement agencies to enforce the provisions of any law pertaining to the practice of pharmacy. Nothing in this section shall be construed to deprive the State Board of Health of any powers or duties otherwise prescribed by law including the enforcement of the narcotic law.

(12) It shall be the duty of the board to investigate alleged violations of this chapter or any rule or regulation published by the board and conduct hearings to revoke, suspend or probate any license or permit granted by the board under the provisions of this chapter and to invoke penalties not to exceed the sum of $1,000.00 for each such violation(s) and to institute any legal proceedings necessary to effect compliance with this chapter; provided, that any person, firm or corporation subjected to such penalty or legal proceedings may take an appeal in accordance with the provisions of Section 34-23-94.

(13) On application of any person and payment of the cost therefor, the secretary of the board shall furnish, under its seal and signed by him, a certified copy of his license or permit, regulation or rule. In any court or proceeding, such copy shall be prima facie evidence of the fact of the issuance of such permit or license and the adoption of such rule or regulation.

(Acts 1966, Ex. Sess., No. 205, p. 231, § 5; Acts 1989, No. 89-235, p. 303, § 3.)

§ 34-23-93. Assisting prosecuting officers; legal counsel. *Current through End of 2007 Regular Session.*

The board and its members and officers shall assist prosecuting officers in the enforcement of this chapter, and it shall be the duty of the board, its members and officers to furnish the proper prosecuting officers with such evidence as it or they may ascertain to assist them in the prosecution of any violation of this chapter, and the board is

authorized for such purposes to make such reasonable expenditures from the funds of the board as it may deem necessary to ascertain and furnish such evidence. The Attorney General of the state shall be the attorney for the board, but the board may in its discretion employ other counsel. It shall be the duty of the district attorney of the judicial circuit wherein any offense is committed to prosecute violations of this chapter.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 6.)

§ 34-23-94. Judicial review of orders. *Current through End of 2007 Regular Session.*

From any order of the board any party affected thereby may appeal such ruling to the circuit court of the county where the party aggrieved resides. The notice of appeal shall be filed within 30 days from the receipt of such order or ruling. Appeals shall be governed by the judicial review provisions of the Alabama Administrative Procedure Act.
(Acts 1966, Ex. Sess., No. 205, p. 231, § 22; Acts 1985, 2nd Ex. Sess., No. 85-1002, p. 380, § 1.)

ARTICLE 5. THIRD PARTY PRESCRIPTION PROGRAM.

§ 34-23-110. Short title. *Current through End of 2007 Regular Session.*

This article shall be known and may be cited as the "Third Party Prescription Program Act."
(Acts 1981, No. 81-337, p. 477, § 1.)

§ 34-23-111. "Third Party Prescription Program" defined. *Current through End of 2007 Regular Session.*

As used in this article, the term "Third Party Prescription Program" shall mean any system of providing for the reimbursement of pharmaceutical services under a contractual arrangement or agreement between a provider of such services and another party who is not the consumer of those services. Such programs may include, but not be limited to, employee benefit plans whereby a consumer receives prescription drugs or other pharmaceutical services and those services are paid for by an agent of the employer or others.
(Acts 1981, No. 81-337, p. 477, § 2.)

§ 34-23-112. Required contractual provisions. *Current through End of 2007 Regular Session.*

Any agreement or contract entered into in this state between the program administrator of a third party program and a pharmacy shall include a statement of the method and amount of reimbursement to the pharmacy for services rendered to persons enrolled in the program, the frequency of payment by the program administrator to the pharmacy for such services rendered, and a method for the adjudication of complaints or the settlement of disputes between the parties.
(Acts 1981, No. 81-337, p. 477, § 3.)

§ 34-23-113. Cancellation of program; use of identity card after cancellation. *Current through End of 2007 Regular Session.*

(a) The administrator of a program shall notify all pharmacies enrolled in said program of any cancellation of coverage of benefits of any group enrolled in the program at least 30 days prior to the effective date of such cancellation.

(b) All persons enrolled in a program shall be notified of its cancellation, and the administrator of the program shall make every reasonable effort to gain possession of any plan identification cards such persons may have been issued pursuant to the provisions of the program.

(c) Any person who utilizes a program identification card to obtain services from a pharmacy after having received notice of the cancellation of his benefits shall be liable to the program administrator for all money paid by the program administrator for any services received pursuant to the illegal use of said identification card.
(Acts 1981, No. 81-337, p. 477, § 4.)

§ 34-23-114. Denial of payment. *Current through End of 2007 Regular Session.*

(a) No program administrator shall deny payment for services to any pharmacy which may have resulted from the fraudulent or illegal use of any identification card by any person unless the pharmacy has been notified that the card has been canceled or discontinued and that the program administrator has been unsuccessful in attempting to regain possession of the card.

(b) No program administrator shall withhold any payments to any pharmacy beyond the time period specified in the payment schedule provisions of the agreement, except that individual claims for payment may be returned to the pharmacy for reasons such as incomplete or illegible information and may then be resubmitted by the pharmacy to the program administrator after appropriate corrections have been made.

(Acts 1981, No. 81-337, p. 477, § 5.)

§ 34-23-115. Reimbursement rates. *Current through End of 2007 Regular Session.*

No agreement between a program administrator and a pharmacy shall establish reimbursement rates or procedures that result in reimbursement rates for services rendered to persons covered by the plan which are less than the usual and customary rates paid by consumers not covered by a third party plan for the same or similar services.

(Acts 1981, No. 81-337, p. 477, § 6.)

§ 34-23-116. Article not applicable to Medicaid services or to services reimbursed by nonprofit corporations operating health care service plans. *Current through End of 2007 Regular Session.*

This article shall not apply to any services rendered pursuant to provisions of the Alabama Medicaid Program or to any corporation organized under the provisions of Title 10, Chapter 4, Article 6, for establishment and operation of health care service plans.

(Acts 1981, No. 81-337, p. 477, § 7; Acts 1983, No. 83-637, p. 986, §§ 1, 2.)

§ 34-23-117. No programs to be instituted until notice given. *Current through End of 2007 Regular Session.*

After June 27, 1981, no third party prescription programs shall be instituted in this state unless:

(1) The program administrator has given written notice of the provisions of the particular program to all pharmacies in this state as defined in Section 34-23-1.

(2) All pharmacies in this state as defined by Section 34-23-1 have had 30 days from the date of said notice to enroll in that particular program.

(Acts 1981, No. 81-337, p. 477, § 8.)

§ 34-23-118. Compliance with article required of all programs. *Current through End of 2007 Regular Session.*

After June 27, 1981, no third party prescription program shall be instituted, nor shall existing agreement or contract be renewed unless they are in compliance with the provisions of this article.

(Acts 1981, No. 81-337, p. 477, § 11.)

ARTICLE 6. PHARMACY TECHNICIANS.

§ 34-23-130. Definitions. *Current through End of 2007 Regular Session.*

As used in this article, the following terms shall have the following meanings:

(1) Pharmacy Functions. Those functions performed in a pharmacy department which do not require the professional judgment of a licensed pharmacist.

(2) Pharmacy Technician. An individual, other than an intern, extern, or an assistant pharmacist, who performs pharmacy functions under the direct supervision of a licensed pharmacist.

(3) Supervision. The direct on-site overseeing of the performance of assigned or delegated duties or

functions.
(Acts 1996, No. 96-496, p. 625, § 1.)

§ 34-23-131. Registration and supervision; rules and regulations; continuing education. *Current through End of 2007 Regular Session.*

(a) A pharmacy technician shall not perform pharmacy functions or be present in the prescription department of a pharmacy unless he or she is under the direct supervision of a licensed pharmacist. A pharmacy technician shall not perform pharmacy functions or be present in the prescription department of a pharmacy unless he or she is registered by the board.

(b) When supervision is required, a licensed pharmacist shall be jointly responsible and liable for the actions of a pharmacy technician.

(c) A pharmacy technician shall register and pay a fee as determined by the board before performing any pharmacy functions. The board shall develop rules and regulations relating to the registration of all pharmacy technicians. The registration of a pharmacy technician shall be renewable biennially in odd-numbered years upon payment of the required fee.

(d) In addition to any other registration requirements, a pharmacy technician shall complete three hours of continuing education annually, of which one hour shall be live presentation.
(Acts 1996, No. 96-496, p. 625, § 2; Act 2004-450, p. 801, § 1.)

§ 34-23-132. Revocation or suspension of registration; probation. *Current through End of 2007 Regular Session.*

The board shall revoke or suspend the registration of a pharmacy technician or place on probation a pharmacy technician for any of, but not limited to, the following reasons:

(1) Willful violation of any provision of this article or the Alabama Uniform Controlled Substances Act.

(2) Willful violation of any rule or regulation promulgated in accordance with this article or the Alabama Uniform Controlled Substances Act.

(3) Action which threatens the public health, safety, or welfare.

(4) Conviction of a felony or misdemeanor involving moral turpitude.

(5) Conviction of a felony or misdemeanor involving a drug related offense of a legend drug or controlled substance.

(6) Obtaining the pharmacy technician registration by fraudulent means.

(7) Violation of the laws regulating the sale or dispensing of narcotics, exempt narcotics, or drugs bearing the label "caution, federal law prohibits dispensing without prescription," or similar wording which causes the drugs to be classified as prescription legend drugs.
(Acts 1996, No. 96-496, p. 625, § 3.)

ARTICLE 7. COMPOUNDING OF DRUGS.

§ 34-23-150. Definitions. *Current through End of 2007 Regular Session.*

As used in this article, the following terms shall have the following meanings:

(1) Board. The Alabama State Board of Pharmacy.

(2) Component. Any ingredient used in the compounding of a drug product.

(3) Compounding. The preparation, mixing, assembling, packaging, and labeling of a drug or device as the result of a licensed practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice.

a. Compounding may also be for the purpose of, or as incident to, research, teaching, or chemical analysis.

b. Compounding includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

c. Reconstitution of commercial products is not considered compounding for purposes of this article.

(4) Compounded over the counter (OTC) products. A medical product that is prepared, packaged, and labeled in a pharmacy that can be sold by the pharmacy without a prescription.

(5) Manufacturing. The production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis and includes any packaging or repackaging of the substance or substances or labeling or relabeling of its container, and the promotion and marketing of such drugs or devices. Manufacturing also includes any preparation of a drug or device that is given or sold for resale by a pharmacy, practitioner, or other person. The distribution of inordinate amounts of compounded products without a prescriber/patient/pharmacist relationship is considered manufacturing.

(6) Pharmacy technician. A person, registered with the board, who assists the pharmacist in the practice of compounding.

(7) Reasonable amounts of compounded products in inventory. The amount that is required to meet historical dispensing needs.

(Act 2003-389, p. 1094, § 1.)

§ 34-23-151. Continuing education; technician assistance; duties of pharmacist. *Current through End of 2007 Regular Session.*

(a) Any pharmacist who engages in drug compounding shall be proficient in compounding and shall continually expand his or her compounding knowledge by participating in seminars or studying appropriate literature, or both.

(b) Pharmacy technicians may assist pharmacists in the preparation of compounds. When a written procedure for a compound is not on file at the pharmacy, a pharmacist must direct the preparation of the compound. At all times, a pharmacist shall verify the weight or volume of all active ingredients of a compound. While compounding, there shall be no more than three technicians per pharmacist.

(c) A pharmacist shall have responsibility to do all of the following:

(1) Verify all prescriptions.

(2) Approve or reject all components of the compounded product, drug product containers, closures, and labeling.

(3) Prepare and review all compounding records to assure that no errors have occurred in the compounding process.

(4) Assure the proper maintenance, cleanliness, and use of all equipment used in a prescription compounding practice.

(5) Assure that only personnel authorized by the supervising pharmacist shall be in the immediate vicinity of the drug compounding operation.

(Act 2003-389, p. 1094, § 2.)

§ 34-23-152. Designation and maintenance of compounding area. *Current through End of 2007 Regular Session.*

Any pharmacy engaged in compounding shall have a specifically designated and adequate area or space for the orderly compounding of prescriptions. The area used for the compounding of drugs shall be maintained in a good state of repair. The compounding area shall have cleanable surfaces to include walls, ceilings, and floors. Adequate lighting and ventilation shall be provided in all compounding areas. Potable water shall be supplied under continuous positive pressure in a plumbing system free of defects that could contribute contamination to any compounded drug product. Areas used for compounding shall be maintained in a clean and sanitary condition.

(Act 2003-389, p. 1094, § 3; Act 2006-543, p. 1260, § 1; Act 2006-573, p. 1506, § 1.)

§ 34-23-153. Use, maintenance, and inspection of compounding equipment. *Current through End of 2007 Regular Session.*

Equipment used in the compounding of drug products shall be of appropriate design and capacity, as well as suitably located to facilitate operations for its intended use, cleaning, and maintenance. Compounding equipment shall be of suitable composition so the surfaces that contact components shall not be reactive, additive, or absorptive so as to alter the purity of the product compounded. Equipment and utensils used for compounding shall be cleaned

and sanitized prior to use to prevent contamination. Equipment and utensils shall be stored in a manner to protect from contamination. Automated, mechanical, electronic, limited commercial scale manufacturing, or testing equipment and other types of equipment may be used in the compounding of drug products. If such equipment is used, it shall be routinely inspected, calibrated, if necessary, or checked to ensure proper performance. Immediately prior to the initiation of compounding operations, the equipment and utensils shall be inspected by the pharmacist and determined to be suitable for use. When potent or hazardous drugs, such as antibiotics, cytotoxins, and steroid hormones, are involved, appropriate measures shall be utilized in order to prevent cross-contamination and proper disposal procedures shall be followed. Measures shall include either the dedication of equipment for such operations or the meticulous cleaning of equipment prior to its use for the preparation of other drugs.
(Act 2003-389, p. 1094, § 4.)

§ 34-23-154. Drug components to meet certain requirements. *Current through End of 2007 Regular Session.*

Pharmacists compounding prescriptions shall use their professional judgment in first receiving, storing, or using drug components that meet official compendia requirements or other high quality sources. Bulk drugs and other chemicals or materials used in the compounding of drugs shall be stored in adequately labeled containers in a clean, dry area or, if required, under proper refrigeration.
(Act 2003-389, p. 1094, § 5.)

§ 34-23-155. Drug product containers and closures. *Current through End of 2007 Regular Session.*

Drug product containers and closures shall be handled and stored in a manner to prevent contamination and to permit inspection and cleaning of the work area. Containers and closures shall be of suitable material in order not to alter the compounded drug as to quality, strength, or purity.
(Act 2003-389, p. 1094, § 6.)

§ 34-23-156. Compounding procedures. *Current through End of 2007 Regular Session.*

The board shall establish written procedures for the compounding of drug products to assure that the finished products have the identity, strength, quality, and purity they purport to have or are represented to possess. The procedures shall include, but not be limited to, a listing of the components, their amounts in weight or volume, the lot number of the components, if available, the order of component mixing, a description of the compounding process, and a designated name for the finished product. The procedures shall be followed in the execution of the compounding procedure. Components shall be accurately weighed, measured, or subdivided, as appropriate. The operations shall be checked and rechecked by the compounding pharmacist at each stage of the process to ensure that each weight and measure is correct as stated in the written compounding procedures. Pharmacists shall determine that all finished products have an acceptable degree of weight variation among capsules, and shall assure a reasonable uniformity and integrity of all compounded products.
(Act 2003-389, p. 1094, § 7.)

§ 34-23-157. Components transferred to nonoriginal container; advance product preparation; labeling.*Current through End of 2007 Regular Session.*

(a) If a component is transferred from the original container to another container, including, but not limited to, a powder being taken from the original container and stored in another container, the new container shall be identified with the following information:

(1) Component name and supplier.

(2) Lot number and expiration date, if available.

(3) Strength and concentration.

(b) Products prepared in anticipation of a prescription prior to receiving a valid prescription shall be prepared in reasonable amounts. Products shall be labeled or documentation referenced with all of the following information:

(1) A complete list of ingredients or designated name of the preparation.

(2) Preparation date.

(3) Beyond use date.

(4) Storage under conditions dictated by composition and stability, including storage in a clean, dry place or in the refrigerator.

(5) Batch or lot number.

(c) Upon the completion of the drug preparation operation, the pharmacist shall examine the product for correct labeling. The prescription label shall contain all of the information required of other prescriptions.
(Act 2003-389, p. 1094, § 8.)

§ 34-23-158. Retention of records. *Current through End of 2007 Regular Session.*

Any procedures or other records required to comply with good compounding practices shall be retained for the same period of time as required for retention of prescription records. All records required to be retained under good compounding practices, or copies of such records, shall be readily available for authorized inspection. Computer information and the hard copy of the prescription shall indicate that the prescription is to be compounded. Adequate records are required to be kept of any controlled dangerous substances or scheduled drugs which are used in compounding.
(Act 2003-389, p. 1094, § 9.)

§ 34-23-159. Preparation of compounded drug products for over the counter sale. *Current through End of 2007 Regular Session.*

A pharmacy may prepare a compounded drug product to be sold over the counter without a prescription order. The product shall not contain an ingredient which exceeds recommended strengths and doses for over the counter drugs. The finished product shall not be one for which a prescription is required. It shall be properly labeled with the product's name, directions for use, list of active ingredients, and any necessary warnings. A compounded product shall be sold directly to the consumer after professional interaction or consultation between the pharmacist and the consumer. The product may be prepared in advance in reasonable amounts in anticipation of estimated needs. The product shall be stored within the prescription department. The product may not be sold in bulk to other pharmacies or vendors for resale.
(Act 2003-389, p. 1094, § 10.)

§ 34-23-160. Preparation of compounded drug products for prescriber's office use; labeling. *Current through End of 2007 Regular Session.*

(a) A pharmacy may prepare a compounded drug product for a prescriber's office use. An order by a prescriber indicating the formula and quantity ordered shall be filed in the pharmacy. The product shall be administered in the prescriber's office and shall not be dispensed to the consumer. A record of the compounded drug product may be kept as a prescription record in the computer of the pharmacy. A label may be generated and a number assigned by the computer of the pharmacy for the compounded product. A record of the product's written procedure shall be on file in the pharmacy as provided in Section 34-23-156. A record of the product's sale to the prescriber shall remain on file at the pharmacy for not less than one year. The record shall contain the following information:

(1) The name and address of the prescriber.

(2) The date of sale.

(3) A description and amount of the product sold.

(b) The label on the compounded product shall include the following information:

(1) The designated name and the strength of the finished product.

(2) The quantity dispensed.

(3) The date on which the product was compounded.

(4) The beyond use date.

(5) A lot or batch number.

(6) Any other information the pharmacist deems necessary.

(7) The name and address of the pharmacy.

(c) The label may not include the phrase "For Office Use."
(Act 2003-389, p. 1094, § 11.)

§ 34-23-161. Prescriptions for animals. *Current through End of 2007 Regular Session.*

Drugs for animals may be compounded based upon an order or prescription. Prescriptions for animals shall be handled and filled in the same manner as are prescriptions for humans.
(Act 2003-389, p. 1094, § 12.)

§ 34-23-162. Rules and regulations. *Current through End of 2007 Regular Session.*

The board shall promulgate such rules and regulations as are necessary for the implementation, administration, and enforcement of this article.
(Act 2003-389, p. 1094, § 13.)

TITLE 20. FOOD, DRUGS, AND COSMETICS.

CHAPTER 2. CONTROLLED SUBSTANCES.

ARTICLE 1. GENERAL PROVISIONS.

§ 20-2-1. Short title. *Current through End of 2007 Regular Session.*

This chapter may be cited as the Alabama Uniform Controlled Substances Act.
(Acts 1971, No. 1407, p. 2378, § 511.)

§ 20-2-2. Definitions. *Current through End of 2007 Regular Session.*

When used in this chapter, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) Administer. The direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

a. A practitioner or, in his or her presence, his or her authorized agent.

b. The patient or research subject at the direction and in the presence of the practitioner.

(2) Agent. An authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. Such term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(3) Certifying boards. The State Board of Medical Examiners, the State Board of Health, the State Board of Pharmacy, the State Board of Dental Examiners, the State Board of Podiatry, and the State Board of Veterinary Medical Examiners.

(4) Controlled substance. A drug, substance, or immediate precursor in Schedules I through V of Article 2 of this chapter.

(5) Counterfeit substance. Substances which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device or any likeness thereof of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(6) Deliver or delivery. The actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(7) Dispense. To deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

(8) Dispenser. A practitioner who dispenses.

(9) Distribute. To deliver other than by administering or dispensing a controlled substance.

(10) Distributor. A person who distributes.

(11) Drug.

a. Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary or any supplement to any of them.

b. Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals.

c. Substances (other than food) intended to affect the structure or any function of the body of man or animals.

d. Substances intended for use as a component of any article specified in paragraphs a, b, or c of this subdivision. Such term does not include devices or their components, parts, or accessories.

(12) Immediate precursor. A substance which the State Board of Pharmacy has found to be and by rule designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(13) Manufacture. The production, preparation, propagation, compounding, conversion, or processing of a controlled substance either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; except, that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance:

a. By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice; or

b. By a practitioner or by his or her authorized agent under his or her supervision for the purpose of or as an incident to research, teaching, or chemical analysis and not for sale.

(14) Marihuana. All parts of the plant Cannabis sativa L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. Such term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

(15) Narcotic drug. Any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

a. Opium and opiate and any salt, compound, derivative, or preparation of opium or opiate.

b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph a, but not including the isoquinoline alkaloids of opium.

c. Opium poppy and poppy straw.

d. Coca leaves and any salt, compound, derivative or preparation of coca leaves and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(16) Opiate. Any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. Such term does not include, unless specifically designated as controlled under this section, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). Such term does include its racemic and levorotatory forms.

(17) Opium poppy. The plant of the species Papaver somniferum L., except its seeds.

(18) Person. Individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, or association or any other legal entity.

(19) Poppy straw. All parts, except the seeds, of the opium poppy, after mowing.

(20) Practitioner.

a. A physician, dentist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

b. A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

(21) Production. The manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(22) State. When applied to a part of the United States, such term includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(23) Ultimate user. A person who lawfully possesses a controlled substance for his or her own use or for

the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.
(Acts 1971, No. 1407, p. 2378, § 101; Acts 1976, No. 699, p. 965, § 1; Acts 1989, No. 89-242, p. 342, § 3; Act 2001-971, 3rd Sp. Sess., p. 873,§ 2.)

§ 20-2-3. Immunity of persons reporting suspected use, etc., of controlled substance by minor child. *Current through End of 2007 Regular Session.*

All persons employed in any capacity in the public, private, and church elementary and secondary schools shall be immune from civil liability for communicating information to the parents of a minor child, law enforcement officers, or health care providers concerning the suspected use, possession, sale, distribution of any controlled substance as defined in Chapter 2 of Title 20, by any minor child as defined by law. Notwithstanding the foregoing, this immunity shall not apply if said person communicated such information maliciously and with knowledge that it was false.
(Acts 1985, No. 85-239, p. 138.)

ARTICLE 2. STANDARDS AND SCHEDULES.

§ 20-2-20. Administration of chapter. *Current through End of 2007 Regular Session.*

(a) The State Board of Health, unless otherwise specified, shall administer this chapter and may add substances to or delete or reschedule all substances enumerated in the schedules in Sections 20-2-23, 20-2-25, 20-2-27, 20-2-29, or 20-2-31 pursuant to the procedures of the State Board of Health. In making a determination regarding a substance, the State Board of Health shall consider all of the following:

(1) The actual or relative potential for abuse.
(2) The scientific evidence of its pharmacological effect, if known.
(3) The state of current scientific knowledge regarding the substance.
(4) The history and current pattern of abuse.
(5) The scope, duration, and significance of abuse.
(6) The risk to the public health.
(7) The potential of the substance to produce psychic or physiological dependence liability.
(8) Whether the substance is an immediate precursor of a substance already controlled under this chapter.

(b) After considering the factors enumerated in subsection (a), the State Board of Health shall make findings with respect thereto and issue a rule controlling the substance if it finds the substance has a potential for abuse.

(c) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the State Board of Health, the State Board of Health shall similarly control the substance under this chapter after the expiration of 30 days from publication in the federal register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, unless within that 30-day period, the State Board of Health objects to inclusion, rescheduling, or deletion. In that case, the State Board of Health shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the State Board of Health shall publish its decision, which shall be final unless altered by statute. Upon publication of objection to inclusion, rescheduling, or deletion under this chapter by the State Board of Health, control under this chapter is stayed until the State Board of Health publishes its decision.

(d) Authority to control under this section does not extend to distilled spirits, wine, malt, beverages, or tobacco.

(e) The State Board of Health shall exclude any nonnarcotic substance from a schedule if such substance, under the federal Food, Drug and Cosmetic Act, the federal Comprehensive Drug Abuse Prevention and Control Act of 1970, and the law of this state may be lawfully sold over the counter without a prescription.
(Acts 1971, No. 1407, p. 2378, § 201; Act 2001-971, 3rd Sp. Sess., p. 873, § 2.)

§ 20-2-21. Nomenclature of controlled substances in schedules. *Current through End of 2007 Regular Session.*

The controlled substances listed or to be listed in the schedules in Sections 20-2-23, 20-2-25, 20-2-27, 20-2-29

and 20-2-31 are included by whatever official, common, usual, chemical or trade name designated.
(Acts 1971, No. 1407, p. 2378, § 202.)

§ 20-2-22. Schedule I -- Standards for compilation. *Current through End of 2007 Regular Session.*

The State Board of Health shall place a substance in Schedule I if it finds that the substance:

(1) Has high potential for abuse; and

(2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

(Acts 1971, No. 1407, p. 2378, § 203.)

§ 20-2-23. Schedule I -- Listing of controlled substances. *Current through End of 2007 Regular Session.*

The controlled substances listed in this section are included in Schedule I:

(1) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

a. Acetylmethadol;
b. Allylprodine;
c. Alphacetylmethadol;
d. Alphameprodine;
e. Alphamethadol;
f. Benzethidine;
g. Betacetylmethadol;
h. Betameprodine;
i. Betamethadol;
j. Betaprodine;
k. Clonitazene;
l. Dextromoramide;
m. Dextrorphan;
n. Diampromide;
o. Diethylthiambutene;
p. Dimenoxadol;
q. Dimepheptanol;
r. Dimethylthiambutene;
s. Dioxaphetyl butyrate;
t. Dipipanone;
u. Ethylmethylthiambutene;
v. Etonitazene;
w. Etoxeridine;
x. Furethidine;
y. Hydroxypethidine;
z. Ketobemidone;
aa. Levomoramide;
bb. Levophenacylmorphan;
cc. Morpheridine;
dd. Noracymethadol;
ee. Norlevorphanol;
ff. Normethadone;
gg. Norpipanone;
hh. Phenadoxone;
ii. Phenampromide;
jj. Phenomorphan;
kk. Phenoperidine;
ll. Piritramide;

mm. Proheptazine;
nn. Properidine;
oo. Racemoramide;
pp. Trimeperidine.

(2) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

a. Acetorphine;
b. Acetyldihydrocodeine;
c. Benzylmorphine;
d. Codeine methylbromide;
e. Codeine-N-Oxide;
f. Cyprenorphine;
g. Desomorphine;
h. Dihydromorphine;
i. Etorphine;
j. Heroin;
k. Hydromorphinol;
l. Methyldesorphine;
m. Methyldihydromorphine;
n. Morphine methylbromide;
o. Morphine methylsulfonate;
p. Morphine-N-Oxide;
q. Myrophine;
r. Nicocodeine;
s. Nicomorphine;
t. Normorphine;
u. Pholcodine;
v. Thebacon.

(3) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

a. 3,4-methylenedioxy amphetamine;
b. 5-methoxy-3,4-methylenedioxy amphetamine;
c. 3,4,5-trimethoxy amphetamine;
d. Bufotenine;
e. Diethyltryptamine;
f. Dimethyltryptamine;
g. 4-methyl-2,5-dimethoxy amphetamine;
h. Ibogaine;
i. Lysergic acid diethylamide;
j. Marihuana;
k. Mescaline;
l. Peyote;
m. N-ethyl-3-piperidyl benzilate;
n. N-methyl-3-piperidyl benzilate;
o. Psilocybin;
p. Psilocyn;
q. Tetrahydrocannabinols.

(Acts 1971, No. 1407, p. 2378, § 204.)

§ 20-2-24. Schedule II -- Standards for compilation. *Current through End of 2007 Regular Session.*

The State Board of Health shall place a substance in Schedule II if it finds that:

(1) The substance has high potential for abuse;

(2) The substance has currently accepted medical use in treatment in the United States or currently accepted

medical use with severe restrictions; and

(3) The abuse of the substance may lead to severe psychic or physical dependence.

(Acts 1971, No. 1407, p. 2378, § 205.)

§ 20-2-25. Schedule II -- Listing of controlled substances. *Current through End of 2007 Regular Session.*

The controlled substances listed in this section are included in Schedule II:

(1) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by combination of extraction and chemical synthesis:

a. Opium and opiate and any salt, compound, derivative or preparation of opium or opiate.

b. Any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph a, but not including the isoquinoline alkaloids of opium.

c. Opium poppy and poppy straw.

d. Coca leaves and any salt, compound, derivative or preparation of coca leaves and any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(2) Any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

a. Alphaprodine;
b. Anileridine;
c. Bezitramide;
d. Dihydrocodeine;
e. Diphenoxylate;
f. Fentanyl;
g. Isomethadone;
h. Levomethorphan;
i. Levorphanol;
j. Metazocine;
k. Methadone;
l. Methadone -- Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
m. Moramide -- Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
n. Pethidine;
o. Pethidine -- Intermediate-A, 4-cyano-l-methyl-4-phenylpiperidine;
p. Pethidine -- Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
q. Pethidine -- Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
r. Phenazocine;
s. Piminodine;
t. Racemethorphan;
u. Racemorphan.

(Acts 1971, No. 1407, p. 2378, § 206.)

§ 20-2-26. Schedule III -- Standards for compilation. *Current through End of 2007 Regular Session.*

The State Board of Health shall place a substance in Schedule III if it finds that:

(1) The substance has a potential for abuse less than the substances listed in Schedules I and II;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

(Acts 1971, No. 1407, p. 2378, § 207.)

§ 20-2-27. Schedule III -- Listing of controlled substances. *Current through End of 2007 Regular Session.*

(a) The controlled substances listed in this section are included in Schedule III:

(1) Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

a. Amphetamine, its salts, optical isomers and salts of its optical isomers;

b. Phenmetrazine and its salts;

c. Any substance which contains any quantity of methamphetamine, including its salts, isomers and salts of isomers;

d. Methylphenidate.

(2) Unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

a. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;

b. Chlorhexadol;

c. Glutethimide;

d. Lysergic acid;

e. Lysergic acid amide;

f. Methyprylon;

g. Phencyclidine;

h. Sulfondiethylmethane;

i. Sulfonethylmethane;

j. Sulfonmethane.

(3) Nalorphine.

(4) Any material, compound, mixture or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof:

a. Not more than 1.8 grams of codeine or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

b. Not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

c. Not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

d. Not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

e. Not more than 1.8 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

f. Not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

g. Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

h. Not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(b) The State Board of Health may except by rule any compound, mixture or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of subsection (a) of this section from the application of all or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.
(Acts 1971, No. 1407, p. 2378, § 208.)

§ 20-2-28. Schedule IV -- Standards for compilation. *Current through End of 2007 Regular Session.*

The State Board of Health shall place a substance in Schedule IV if it finds that:

(1) The substance has a low potential for abuse relative to substances in Schedule III;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

(Acts 1971, No. 1407, p. 2378, § 209.)

§ 20-2-29. Schedule IV -- Listing of controlled substances. *Current through End of 2007 Regular Session.*

(a) The controlled substances listed in this section are included in Schedule IV:

(1) Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

a. Barbital;

b. Chloral betaine;

c. Chloral hydrate;

d. Ethchlorvynol;

e. Ethinamate;

f. Methohexital;

g. Meprobamate;

h. Methylphenobarbital;

i. Paraldehyde;

j. Petrichloral;

k. Phenobarbital.

(b) The State Board of Health may except by rule any compound, mixture or preparation containing any depressant substance listed in subsection (a) from the application of all or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

(Acts 1971, No. 1407, p. 2378, § 210.)

§ 20-2-30. Schedule V -- Standards for compilation. *Current through End of 2007 Regular Session.*

The State Board of Health shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

(Acts 1971, No. 1407, p. 2378, § 211.)

§ 20-2-31. Schedule V -- Listing of controlled substances. *Current through End of 2007 Regular Session.*

The controlled substances listed in this section are included in Schedule V:

(1) Any compound, mixture or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. Not more than 200 milligrams of codeine or any of its salts per 100 milliliters or per 100 grams;

b. Not more than 100 milligrams of dihydrocodeine or any of its salts per 100 milliliters or per 100 grams;

c. Not more than 100 milligrams of ethylmorphine or any of its salts per 100 milliliters or per 100 grams;

d. Not more than 2.5 milligrams of diphenozylate and not less than 25 micrograms of atropine sulfate per dosage unit;

e. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(Acts 1971, No. 1407, p. 2378, § 212.)

§ 20-2-32. Revision and republication of schedules. *Current through End of 2007 Regular Session.*

The State Board of Health shall revise and republish the schedules annually.

(Acts 1971, No. 1407, p. 2378, § 213.)

ARTICLE 3. REGULATION OF MANUFACTURE AND DISTRIBUTION.

§ 20-2-50. Certifying boards to promulgate rules and charge reasonable fees for registration and administration of provisions relating to manufacture, etc., of controlled substances; disposition of fees collected. *Current through End of 2007 Regular Session.*

(a) The certifying boards shall promulgate rules and charge reasonable fees to defray expenses incurred in registration and administration of the provisions of this article in regard to the manufacture, dispensing or distribution of controlled substances within the state.

(b) The fees collected to defray expenses shall be retained by the certifying boards.

(Acts 1971, No. 1407, p. 2378, § 301; Acts 1976, No. 699, p. 965, § 2.)

§ 20-2-51. Registration of persons manufacturing, distributing, or dispensing controlled substances -- General requirements. *Current through End of 2007 Regular Session.*

(a) Every person who manufactures, distributes or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance within this state must obtain annually a registration issued by the certifying boards in accordance with its rules.

(b) Persons registered by the certifying boards under this chapter to manufacture, distribute, dispense or conduct research with controlled substances may possess, manufacture, distribute, dispense or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

(c) The following persons need not register and may lawfully possess controlled substances under this article:

(1) An agent or employee of any registered manufacturer, distributor or dispenser of any controlled substance if he is acting in the usual course of his business or employment;

(2) A common or contract carrier or warehouseman or an employee thereof whose possession of any controlled substance is in the usual course of business or employment;

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

(d) The certifying boards may waive by rule the requirement for registration of certain manufacturers, distributors or dispensers if they find it consistent with the public health and safety.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes or dispenses controlled substances.

(f) The certifying boards may inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by them.

(Acts 1971, No. 1407, p. 2378, § 302.)

§ 20-2-52. Registration of persons manufacturing, distributing, or dispensing controlled substances -- Standards; requirements as to practitioners conducting research; effect of federal registration. *Current through End of 2007 Regular Session.*

(a) The certifying boards shall register only an applicant certified by their respective boards to manufacture, dispense or distribute controlled substances enumerated in Schedules I, II, III, IV and V; provided, that the State Board of Pharmacy shall register all manufacturers and wholesalers unless they determine that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the above-mentioned boards shall consider the following factors:

(1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific or industrial channels;

(2) Compliance with applicable state and local law;

(3) Any convictions of the applicant under any federal and state laws relating to any controlled substance;

(4) Past experience in the manufacture or distribution of controlled substances and the existence in the applicant's establishment of effective controls against diversion;

(5) Furnishing by the applicant of false or fraudulent material in any application filed under this article;

(6) Suspension or revocation of the applicant's federal registration to manufacture, distribute or dispense controlled substances as authorized by federal law; and

(7) Any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) of this section does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

(c) Practitioners must be registered to dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the laws of this state. The State Board of Health need not require separate registration under this article for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the registrant is already registered under this article in another capacity. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this state upon furnishing the State Board of Health evidence of that federal registration.

(d) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this article.

(Acts 1971, No. 1407, p. 2378, § 303; Acts 1976, No. 699, p. 965, § 3.)

§ 20-2-53. Registration of persons manufacturing, distributing, or dispensing controlled substances -- Order to show cause; proceedings; review; issuance of stay. *Current through End of 2007 Regular Session.*

(a) Before denying, suspending, or revoking a registration or refusing a renewal of registration, the certifying boards shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the certifying board at a time and place not less than 30 days after the date of service of the order, but in the case of a denial of renewal of registration the show cause order shall be served not later than 30 days before the expiration of the registration. These proceedings shall be conducted in accordance with the Alabama Administrative Procedure Act and the procedures established by the respective certifying board without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(b) Anyone adversely affected by any order of a certifying board denying, suspending, or revoking a registration or refusing the renewal of a registration, whether or not such suspension, revocation, or registration is limited, may obtain judicial review thereof by filing a written petition for review with the Circuit Court of Montgomery County in accordance with Section 41-22-20.

(c) The following procedures shall take precedence over subsection (c) of Section 41-22-20 relating to the issuance of a stay of any order of the certifying board suspending, revoking, or restricting a registration. The suspension, revocation, or restriction of a registration shall be given immediate effect, and no stay or supersedeas shall be granted pending judicial review of a decision by the certifying board to suspend, revoke, or restrict a registration unless a reviewing court, upon proof by the party seeking judicial review, finds in writing that the action of the certifying board was taken without statutory authority, was arbitrary or capricious, or constituted a gross abuse of discretion. Notwithstanding any other provision of law to the contrary, any action commenced for the purpose of seeking judicial review of the administrative decisions of a certifying board, including writ of mandamus, or judicial review pursuant to the Alabama Administrative Procedure Act, must be filed, commenced, and maintained in the Circuit Court of Montgomery County, Alabama.

(d) From the judgment of the circuit court, either the certifying board or the affected party who invoked the review may obtain a review of any final judgement of the circuit court under Section 41-22-21. No security shall be required of the certifying board.

(Acts 1971, No. 1407, p. 2378, § 305; Acts 1982, No. 82-492, p. 815, § 2; Act 2002-140, p. 359, § 3.)

§ 20-2-54. Registration of persons manufacturing, distributing, or dispensing controlled substances -- Revocation or suspension of registration -- Grounds and procedure generally. *Current through End of 2007*

Regular Session.

(a) A registration under Section 20-2-52 to manufacture, distribute or dispense a controlled substance may be suspended or revoked by the certifying boards upon a finding that the registrant:

(1) Has furnished false or fraudulent material information in any application filed under this article;

(2) Has been convicted of a crime under any state or federal law relating to any controlled substance;

(3) Has had his federal registration suspended or revoked to manufacture, distribute or dispense controlled substances;

(4) Has violated the provisions of Chapter 23 of Title 34; or

(5) Has, in the opinion of the certifying board, excessively dispensed controlled substances for any of his patients.

a. A registrant may be considered to have excessively dispensed controlled substances if his certifying board finds that either the controlled substances were dispensed for no legitimate medical purpose, or that the amount of controlled substances dispensed by the registrant is not reasonably related to the proper medical management of his patient's illnesses or conditions. Drug addiction shall not be considered an illness or condition which would justify continued dispensing of controlled substances, except in gradually decreasing dosages administered to the patient for the purpose of curing the addiction.

b. A registrant who is a physician licensed to practice medicine in the State of Alabama may be considered to have excessively dispensed controlled substances if he or she prescribes, orders, dispenses, administers, supplies or otherwise distributes any Schedule II amphetamine and/or Schedule II amphetamine-like anorectic drug, and/or Schedule II sympathomimetic amine drug or compound thereof, and/or any salt, compound, isomer, derivative or preparation of the foregoing which are chemically equivalent thereto, and/or other non-narcotic Schedule II stimulant drug, which drugs or compounds are classified under Schedule II of the Alabama Uniform Controlled Substances Act, Section 20-2-24, to any person except for the therapeutic treatment of:

1. Narcolepsy.

2. Hyperkinesis.

3. Brain dysfunction of sufficiently specific diagnosis, or etiology which clearly indicates the need for these substances in treatment or control.

4. Epilepsy.

5. Differential psychiatric evaluation of clinically significant depression provided however, that such treatment shall not extend beyond a period of 30 days unless the patient is referred to a licensed practitioner specializing in the treatment of depression.

6. Clinically significant depression shown to be refractory to other therapeutic modalities provided however, that such treatment shall not extend beyond a period of 30 days unless the patient is referred to a licensed practitioner specializing in the treatment of depression;

or for the clinical investigation of the effects of such drugs or compounds, in which case an investigative protocol must be submitted to and reviewed and approved by the State Board of Medical Examiners before the investigation has begun. A physician prescribing, ordering or otherwise distributing the controlled substances listed above in the manner permitted by this subsection shall maintain a complete record which must include documentation of the diagnosis and reason for prescribing, the name, dose, strength, and quantity of the drug, and the date prescribed or distributed. The records required under this subsection shall be made available for inspection by the certifying board or its authorized representative upon request. Those Schedule II stimulant drugs enumerated above shall not be dispensed or prescribed for the treatment or control of exogenous obesity.

(b) The certifying boards may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) If the certifying boards suspend or revoke a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(d) The certifying boards shall promptly notify the Drug Enforcement Administration of the United States Department of Justice of all orders suspending or revoking registration and all forfeitures of controlled substances.
(Acts 1971, No. 1407, p. 2378, § 304; Acts 1979, No. 79-204, p. 313, § 1; Acts 1983, 4th Ex. Sess., No. 83-890, § 2; Act 2001-971, 3rd Sp. Sess., p. 873, § 2.)

§ 20-2-54.1. Rules and regulations. *Current through End of 2007 Regular Session.*

The certifying boards under the Alabama Uniform Controlled Substances Act, the State Board of Medical Examiners and the Medical Licensure Commission are each authorized to promulgate such rules and regulations as may be required to implement the provisions of this chapter.
(Acts 1983, 4th Ex. Sess., No. 83-890, § 4.)

§ 20-2-55. Registration of persons manufacturing, distributing, or dispensing controlled substances -- Revocation or suspension of registration -- Suspension without prior order to show cause. *Current through End of 2007 Regular Session.*

The certifying boards may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under Section 20-2-54 or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the certifying boards or dissolved by a court of competent jurisdiction.
(Acts 1971, No. 1407, p. 2378, § 305.)

§ 20-2-56. Maintenance of records and inventories by registrants generally. *Current through End of 2007 Regular Session.*

Persons registered to manufacture, distribute or dispense controlled substances under this article shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of federal law and with any additional rules issued by the State Board of Medical Examiners, the State Board of Health or the State Board of Pharmacy.
(Acts 1971, No. 1407, p. 2378, § 306; Acts 1976, No. 699, p. 965, § 4.)

§ 20-2-57. Distribution of certain controlled substances by one registrant to another registrant. *Current through End of 2007 Regular Session.*

Controlled substances in Schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.
(Acts 1971, No. 1407, p. 2378, § 307.)

§ 20-2-58. Dispensing of controlled substances in Schedule II; maintenance of records and inventories by registered pharmacies. *Current through End of 2007 Regular Session.*

(a) Except as otherwise provided in this section or as otherwise provided by law, a pharmacist may dispense directly a controlled substance in Schedule II only pursuant to a written prescription signed by the practitioner. Except as provided in subsections (b) and (c), a prescription for a Schedule II controlled substance may be transmitted by the practitioner or the agent of the practitioner to a pharmacy via facsimile equipment, provided the original written, signed prescription is presented to the pharmacist for review prior to the actual dispensing of the controlled substance.

(b) A prescription written for a Schedule II narcotic substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be transmitted by the practitioner or the agent of the practitioner to the home infusion pharmacy by facsimile. The facsimile shall serve as the original written prescription.

(c) A prescription written for Schedule II substances for a resident of a long-term care facility may be

transmitted by the practitioner or the agent of the practitioner to the dispensing pharmacy by facsimile. The facsimile shall serve as the original written prescription.

(d) Each registered pharmacy shall maintain the inventories and records of controlled substances as follows:

(1) Inventories and records of all controlled substances listed in Schedules I and II shall be maintained separately from all other records of the pharmacy, and prescriptions for the substances shall be maintained in a separate prescription file.

(2) Inventories and records of controlled substances listed in Schedules III, IV, and V shall be maintained either separately from all other records of the pharmacy or in the form that the information required is readily retrievable from ordinary business records of the pharmacy, and prescriptions for the substances shall be maintained either in separate prescription file for controlled substances listed in Schedules III, IV, and V only or in the form that they are readily retrievable from the other prescription records of the pharmacy.

(e) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV which is a prescription drug as determined under State Board of Health statute, shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

(f) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.

(g) In an emergency situation, a pharmacist may dispense a Schedule II controlled substance for a resident of a long-term care facility, a patient receiving hospice services, or a patient receiving home health care services pursuant to an emergency oral prescription transmitted by the practitioner to the dispensing pharmacy. The quantity dispensed pursuant to an emergency oral prescription shall be limited to the amount adequate to treat the patient during the emergency period not to exceed 72 hours. The practitioner, within seven days of the emergency oral prescription, shall provide the dispensing pharmacy with a written prescription for the quantity prescribed.
(Acts 1971, No. 1407, p. 2378, § 308; Acts 1995, No. 95-732, p. 1565, § 1; Act 98-617, p. 1358, § 1; Act 2006-183, p. 256, § 1.)

ARTICLE 4. OFFENSES AND PENALTIES.

§ 20-2-70. Prohibited acts A. Repealed by Acts 1987, No. 87-603, p. 1047, § 12, effective October 21, 1987.

Current through End of 2007 Regular Session.

§ 20-2-71. Prohibited acts B. *Current through End of 2007 Regular Session.*

(a) It is unlawful for any person:

(1) Who is subject to Article 3 of this chapter to distribute or dispense a controlled substance in violation of Section 20-2-58;

(2) Who is a registrant to manufacture a controlled substance not authorized by his registration or to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;

(3) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this chapter; provided, however, that upon the first conviction of a violator under this provision said violator shall be guilty of a Class A misdemeanor. Subsequent convictions shall subject the violator to the felony penalty provision set forth in subsection (b) of this section.

(4) To refuse an entry into any premises for any inspection authorized by this chapter; or

(5) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft or other structure or place which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances or which is used for keeping or selling them in violation of this chapter.

(b) Any person who violates this section is guilty of a Class B felony.
(Acts 1971, No. 1407, p. 2378, § 402; Acts 1987, No. 87-603, p. 1047, § 6.)

§ 20-2-72. Prohibited acts C. *Current through End of 2007 Regular Session.*

(a) It is unlawful for any person:

(1) To distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by Section 20-2-57;

(2) To use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended or issued to another person;

(3) To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;

(4) To furnish false or fraudulent material information in or omit any material information from any application, report or other document required to be kept or filed under this chapter or any record required to be kept by this chapter; or

(5) To make, distribute or possess any punch, die, plate, stone or other thing designed to print, imprint or reproduce the trademark, trade name or other identifying mark, imprint or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.

(b) Any person who violates this section is guilty of a Class B felony, except that any person who violates subdivision (a)(3) of this section is guilty of a Class C felony.
(Acts 1971, No. 1407, p. 2378, § 403; Acts 1987, No. 87-603, p. 1047, § 7.)

§ 20-2-73. Transferred to § 13A-12-215 by Acts 1988, 1st Ex. Sess., No. 88-918, p. 512, § 2, effective September 30, 1988. *Current through End of 2007 Regular Session.*

§ 20-2-74. Prescription, administration, etc., of controlled substances by practitioners of veterinary medicine for use of human beings or by practitioners of dentistry for persons not under treatment in regular practice of profession. *Current through End of 2007 Regular Session.*

(a) It shall be unlawful for any practitioner of dentistry to prescribe, administer or dispense any controlled substance enumerated in Schedules I through V for any person not under his treatment in his regular practice of his profession or for any practitioner of veterinary medicine to prescribe, administer or dispense any controlled substance enumerated in Schedules I through V for the use of human beings; provided, however, that the provisions of this section shall be construed not to prevent any lawfully authorized practitioner of medicine from furnishing or prescribing in good faith for the use of any habitual user of substances enumerated in Schedules I through V who is under his professional care such substances as he may deem necessary for their treatment, when such prescriptions are not given or substances furnished for the purpose of maintaining addiction or abuse.

(b) Any person who violates this section shall be guilty of a Class B felony.
(Acts 1971, No. 1407, p. 2378, § 505; Acts 1987, No. 87-603, p. 1047, § 9.)

§ 20-2-75. "Drug related object" defined; distribution prohibited; affirmative defenses; penalty; contraband subject to forfeiture. Repealed by Acts 1986, No. 86-425, p. 771, § 4, effective April 29, 1986.

Current through End of 2007 Regular Session.

§ 20-2-75.1. Transferred to § 13A-12-260 by Acts 1988, 1st Ex. Sess., No. 88-918, p. 512, § 2, effective September 30, 1988. *Current through End of 2007 Regular Session.*

§ 20-2-76. Penalties for second or subsequent offenses; when offense deemed second or subsequent offense. Repealed by Acts 1987, No. 87-603, p. 1047, § 12, effective October 21, 1987. *Current through End of 2007 Regular Session.*

§ 20-2-77. Conviction or acquittal under federal law or state law to bar prosecution for same violation under chapter. Repealed by Acts 1987, No. 87-603, p. 1047, § 12, effective October 21, 1987. *Current through End of 2007 Regular Session.*

§ 20-2-78. Penalties imposed for violations of chapter in addition to other civil or administrative penalties or sanctions. *Current through End of 2007 Regular Session.*

Any penalty imposed for violation of this chapter is in addition to and not in lieu of any civil or administrative penalty or sanction otherwise authorized by law.
(Acts 1971, No. 1407, p. 2378, § 404.)

§ 20-2-79. Transferred to § 13A-12-250 by Acts 1988, 1st Ex. Sess., No. 88-918, p. 512, § 2, effective September 30, 1988. *Current through End of 2007 Regular Session.*

ARTICLE 4A. TRAFFICKING IN ILLEGAL DRUGS.

§§ 20-2-80, 20-2-81. Transferred to §§ 13A-12-231 and 13A-12-232 by Acts 1988, 1st Ex. Sess. No. 88-918, p. 512, § 2, effective September 30, 1988. *Current through End of 2007 Regular Session.*

§§ 20-2-80, 20-2-81. Transferred to §§ 13A-12-231 and 13A-12-232 by Acts 1988, 1st Ex. Sess. No. 88-918, p. 512, § 2, effective September 30, 1988. *Current through End of 2007 Regular Session.*

ARTICLE 5. ENFORCEMENT.

§ 20-2-90. State Board of Pharmacy, Department of Public Safety, etc., to enforce chapter; drug inspectors to meet minimum standards. *Current through End of 2007 Regular Session.*

(a) The State Board of Pharmacy and its drug inspectors shall enforce all provisions of this chapter. The agents and officers of this Department of Public Safety, the drug and narcotic agents and inspectors of the State Board of Health, the investigators of the State Board of Medical Examiners, the investigators of the Board of Dental Examiners, and all peace officers of the state and all prosecuting attorneys are also charged with the enforcement of this chapter. The agents and officers of the Department of Public Safety, the drug inspectors of the State Board of Pharmacy, the investigators of the State Board of Medical Examiners, the investigators of the Board of Dental Examiners, and the drug and narcotic agents and inspectors of the State Board of Health shall have the powers of peace officers in the performance of their duties to:

(1) Make arrests without warrant for any offense under this chapter committed in their presence, or if they have probable cause to believe that the person to be arrested has committed or is committing a violation of this chapter which may constitute a felony.

(2) Make seizures of property pursuant to this chapter.

(3) Carry firearms in the performance of their official duties.

(b) In addition to the requirements of subsection (a), drug inspectors of the State Board of Pharmacy shall, beginning October 1, 1993, meet the minimum standards required of peace officers in this state.
(Acts 1971, No. 1407, p. 2378, § 501; Acts 1981, No. 81-657, p. 1073; Acts 1987, No. 87-578, p. 923, § 1; Acts

1993, No. 93-671, p. 1209, § 3.)

§ 20-2-91. Inspection of stocks of controlled substances and prescriptions, orders, etc., required by chapter; disclosure of information as to prescriptions, orders, etc., by enforcement personnel. *Current through End of 2007 Regular Session.*

(a) Prescriptions, orders and records required by this chapter and stocks of controlled substances enumerated in Schedules I, II, III, IV and V shall be open for inspection only to federal, state, county and municipal officers, the investigators of the board of dental examiners, and the agents and officers of the department of public safety whose duty it is to enforce the laws of this state or of the United States relating to controlled substances.

(b) No officer having knowledge by virtue of his office of any such prescription, order or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders or records relate is a party.

(Acts 1971, No. 1407, p. 2378, § 502; Acts 1987, No. 87-578, p. 923, § 1.)

§ 20-2-92. Injunctions. *Current through End of 2007 Regular Session.*

(a) The circuit courts of this state have jurisdiction to restrain or enjoin violations of this chapter.

(b) The defendant may demand trial by jury for an alleged violation of an injunction or temporary restraining order under this section.

(Acts 1971, No. 1407, p. 2378, § 503.)

§ 20-2-93. Forfeitures; seizures. *Current through End of 2007 Regular Session.*

(a) The following are subject to forfeiture:

(1) All controlled substances which have been grown, manufactured, distributed, dispensed or acquired in violation of any law of this state;

(2) All raw materials, products and equipment of any kind which are used or intended for use in manufacturing, cultivating, growing, compounding, processing, delivering, importing or exporting any controlled substance in violation of any law of this state;

(3) All property which is used or intended for use as a container for property described in subdivision (1) or (2) of this subsection;

(4) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of any law of this state; all proceeds traceable to such an exchange; and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of any law of this state concerning controlled substances;

(5) All conveyances, including aircraft, vehicles, or vessels, or agricultural machinery, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of any property described in subdivision (1) or (2) of this subsection;

(6) All books, records and research products and materials, including formulas, microfilm, tapes and data, which are used or intended for use in violation of any law of this state concerning controlled substances;

(7) All imitation controlled substances as defined under the laws of this state;

(8) All real property or fixtures used or intended to be used for the manufacture, cultivation, growth, receipt, storage, handling, distribution, or sale of any controlled substance in violation of any law of this state;

(9) All property of any type whatsoever constituting, or derived from, any proceeds obtained directly, or indirectly, from any violation of any law of this state concerning controlled substances;

(b) Property subject to forfeiture under this chapter may be seized by state, county or municipal law enforcement agencies upon process issued by any court having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(3) The state, county, or municipal law enforcement agency has probable cause to believe that the property

is directly or indirectly dangerous to health or safety; or

(4) The state, county or municipal law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b) of this section, proceedings under subsection (d) of this section shall be instituted promptly.

(d) Property taken or detained under this section shall not be subject to replevin but is deemed to be in the custody of the state, county or municipal law enforcement agency subject only to the orders and judgment of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the state, county or municipal law enforcement agency may:

(1) Place the property under seal;

(2) Remove the property to a place designated by it;

(3) Require the state, county or municipal law enforcement agency to take custody of the property and remove it to an appropriate location for disposition in accordance with law; and

(4) In the case of real property or fixtures, post notice of the seizure on the property, and file and record notice of the seizure in the probate office.

(e) When property is forfeited under this chapter the state, county or municipal law enforcement agency may:

(1) Retain it for official use; except for lawful currency (money) of the United States of America which shall be disposed of in the same manner provided for the disposal of proceeds from a sale in subdivision (e)(2) of this section;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds from the sale authorized by this subsection shall be used, first, for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of or custody, advertising and court costs; and the remaining proceeds from such sale shall be awarded and distributed by the court to the municipal law enforcement agency or department, and/or county law enforcement agency or department, and/or state law enforcement agency or department, following a determination of the court of whose law enforcement agencies or departments are determined by the court to have been a participant in the investigation resulting in the seizure, and such award and distribution shall be made on the basis of the percentage as determined by the court, which the respective agency or department contributed to the police work resulting in the seizure. Provided however, any proceeds from sales authorized by this section awarded by the court to a county or municipal law enforcement agency or department shall be deposited into the respective county or municipal general fund and made available to the affected law enforcement agency or department upon requisition of the chief law enforcement official of such agency or department.

(3) Require the state, county or municipal law enforcement agency to take custody of the property and remove it for disposition in accordance with law.

(f) Controlled substances listed in Schedule I that are possessed, transferred, sold or offered for sale in violation of any law of this state are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

(g) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of any law of this state or of which the owners or cultivators are unknown or which are wild growths may be seized and summarily forfeited to the state.

(h) An owner's or bona fide lienholder's interest in real property or fixtures shall not be forfeited under this section for any act or omission unless the state proves that that act or omission was committed or omitted with the knowledge or consent of that owner or lienholder. An owner's or bona fide lienholder's interest in any type of property other than real property and fixtures shall be forfeited under this section unless the owner or bona fide lienholder proves both that the act or omission subjecting the property to forfeiture was committed or omitted without the owner's or lienholder's knowledge or consent and that the owner or lienholder could not have obtained by the exercise of reasonable diligence knowledge of the intended illegal use of the property so as to have prevented such use. Except as specifically provided to the contrary in this section, the procedures for the condemnation and forfeiture of property seized under this section shall be governed by and shall conform to the procedures set out in Sections 28-4-286 through 28-4-290, except that: (1) the burden of proof and standard of proof shall be as set out in this subsection instead of as set out in the last three lines of Section 28-4-290; and (2) the official filing the complaint shall also serve a copy of it on any person, corporation, or other entity having a perfected security interest in the property that is known to that official or that can be discovered through the exercise of reasonable diligence. (Acts 1971, No. 1407, p. 2378, § 504; Acts 1981, No. 81-413, p. 650; Acts 1982, No. 82-426, p. 670, § 4; Acts 1983, 2nd Ex. Sess., No. 83-131, p. 137, § 1; Acts 1988, No. 88-651, p. 1038, § 2; Acts 1989, No. 89-525, p. 1074;

Acts 1990, No. 90-472, p. 689, § .)

ARTICLE 6. THERAPEUTIC RESEARCH.

§ 20-2-110. Short title. *Current through End of 2007 Regular Session.*

This article shall be known as the "Controlled Substances Therapeutic Research Act."
(Acts 1979, No. 79-472, p. 870, § 1.)

§ 20-2-111. Legislative findings; cannabis research. *Current through End of 2007 Regular Session.*

The Legislature finds that recent research has shown that the use of cannabis may alleviate nausea and ill-effects of cancer chemotherapy, and may alleviate the ill-effects of glaucoma. The Legislature further finds that there is a need for further research and experimentation with regard to the use of cannabis under strictly controlled circumstances. It is for these purposes that the Controlled Substances Therapeutic Research Act is hereby established.
(Acts 1979, No. 79-472, p. 870, § 2.)

§ 20-2-112. Definitions. *Current through End of 2007 Regular Session.*

As used in this article the following words, unless the context clearly indicates the contrary, shall have the following meanings:

(1) Controlled substance. The same as is defined in subdivision (5) of Section 20-2-2, as amended;

(2) Cannabis. The same as those substances defined in subdivision (15) of Section 20-2-2, as amended, and particularly those substances defined as tetrahydrocannabinols, or a chemical derivative thereof;

(3) Practitioner. A physician licensed to practice medicine in this state and particularly as herein enumerated.

(Acts 1979, No. 79-472, p. 870, § 3.)

§ 20-2-113. Controlled Substances Therapeutic Research Program -- Established; review committee; rules and regulations; formulation with federal agencies. *Current through End of 2007 Regular Session.*

There is hereby established by the State Board of Medical Examiners the Controlled Substances Therapeutic Research Program. The board shall administer the program by a review committee. The board shall promulgate such rules and regulations as are necessary for the proper administration and implementation of the program. Such promulgations shall be formulated to consider those pertinent rules and regulations promulgated by the Federal Drug Enforcement Agency, Food and Drug Administration and the National Institute on Drug Abuse.
(Acts 1979, No. 79-472, p. 870, § 4.)

§ 20-2-114. Controlled Substances Therapeutic Research Program -- Limited to cancer chemotherapy and glaucoma patients; certification; exemption from prosecution. *Current through End of 2007 Regular Session.*

Except as herein otherwise provided, the Controlled Substances Therapeutic Research Program shall be limited to cancer chemotherapy patients and glaucoma patients, who are certified to the review committee by an authorized practitioner as being in such medical condition necessary for the treatment of glaucoma, or the side effects of chemotherapy in cancer patients; such authorization shall be upon such terms and conditions as may be consistent with the public health and safety. To the extent of the applicable authorization, persons are exempt from prosecution in this state for possession, production, manufacture or delivery of cannabis.
(Acts 1979, No. 79-472, p. 870, § 5.)

§ 20-2-115. Composition of review committee. *Current through End of 2007 Regular Session.*

The review committee shall consist of: (a) one physician licensed to practice medicine in this state and certified

by the American Board of Ophthalmology; (b) one physician licensed to practice medicine in this state, certified by the American Board of Internal Medicine and also certified in the subspecialty of medical oncology; (c) one physician licensed to practice medicine in this state, certified in the specialty of pediatrics and also certified in the subspecialty of pediatrics oncology; (d) one physician licensed to practice medicine in this state, certified in the specialty of gynecology and also certified in the subspecialty of gynecological oncology; (e) one physician licensed to practice medicine in this state, certified in the specialty of radiology and also certified in the subspecialty of radiation oncology; and (f) the Director of the Comprehensive Cancer Center of the University of Alabama in Birmingham.
(Acts 1979, No. 79-472, p. 870, § 6.)

§ 20-2-116. Certification in subspecialty of oncology required; certification by State Board of Medical Examiners; recertification. *Current through End of 2007 Regular Session.*

Only physicians in the practice of medicine as prescribed in Section 20-2-115 and specifically certified by the State Board of Medical Examiners to dispense cannabis under the provisions of this article, shall be practitioners hereunder. Each practitioner shall make application for recertification every three years.
(Acts 1979, No. 79-472, p. 870, § 7; Acts 1981, No. 81-506, p. 869, § 1.)

§ 20-2-117. Contracts for receipt of cannabis; Board of Medical Examiners to promulgate guidelines, rules, and regulations. *Current through End of 2007 Regular Session.*

The State Board of Medical Examiners may apply to contract with the National Institute of Drug Abuse for receipt of cannabis pursuant to the regulations promulgated by the National Institute on Drug Abuse, the Food and Drug Administration and the Drug Enforcement Administration. The board may formulate and promulgate such guidelines as are necessary for dispensing cannabis consistent with the public health and safety and under strictly controlled circumstances. The board further may establish the rules and regulations requiring accurate reporting and accountability by each practitioner to the board and any federal agency as required by law.
(Acts 1979, No. 79-472, p. 870, § 8; Acts 1981, No. 81-506, p. 869, § 2.)

§ 20-2-118. Annual reports to Governor and Legislature. *Current through End of 2007 Regular Session.*

Each year, on or before the fifth day of the Regular Session of the Legislature the State Board of Medical Examiners, in conjunction with the board's review committee, shall report their findings and recommendations to the Governor, the President of the Senate and the Speaker of the House of Representatives, regarding the effectiveness of the controlled substances.
(Acts 1979, No. 79-472, p. 870, § 9.)

§ 20-2-119. Enumeration as Schedule I or II substance inapplicable. *Current through End of 2007 Regular Session.*

The enumeration of cannabis, tetrahydrocannabinols or a chemical derivative thereof as a Schedule I or II controlled substance under Article 2 of Chapter 2 of this title, as amended, does not apply to the use of such drugs or chemical derivatives thereof pursuant to the provisions of this article.
(Acts 1979, No. 79-472, p. 870, § 10.)

§ 20-2-120. Penalties. *Current through End of 2007 Regular Session.*

Any person or any practitioner who prescribes or dispenses cannabis or any of its derivatives for reasons other than outlined in this article upon conviction thereof shall be guilty of a felony and shall be punished as provided in Section 13A-12-211.
(Acts 1979, No. 79-472, p. 870, § 11.)

ARTICLE 7. IMITATION CONTROLLED SUBSTANCES.

§ 20-2-140. Short title. *Current through End of 2007 Regular Session.*

This article shall be known and may be cited as the Imitation Controlled Substances Act.
(Acts 1982, No. 82-426, p. 670, § 1.)

§ 20-2-141. Definitions. *Current through End of 2007 Regular Session.*

As used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) Controlled substance. A substance as defined in Section 20-2-2.

(2) Imitation controlled substance. A substance, other than a legend controlled drug, that is not a controlled substance, which by dosage unit appearance (including color, size, shape and markings), and by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In the cases where the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an "imitation controlled substance" (for example as in the case of a powder or liquid), the court or authority concerned should consider, in addition to all other logically relevant factors, the following factors as related to "representations made" in determining whether the substance is an "imitation controlled substance":

a. Statements made by the owner or anyone else in control of the substance concerning the nature of the substance, its use or effect.

b. Statements made to the recipient that the substance may be resold for an inordinate profit.

c. Whether the substance is packaged in a manner normally used for illicit controlled substances.

d. Evasive tactics or actions utilized by the owner or person in control of this substance to avoid detection by law enforcement authorities.

e. Prior convictions, if any, of an owner or anyone in control of the substance, under state or federal law related to controlled substances or fraud.

f. The proximity of the substances to controlled substances.

(3) Distribute. The actual, constructive or attempted transfer, delivery, or dispensing to another of an imitation controlled substance.

(4) Manufacture. The production, preparation, compounding, processing, encapsulating, packaging, or repackaging, labeling or relabeling of an imitation controlled substance.
(Acts 1982, No. 82-426, p. 670, § 2; Acts 1983, 2nd Ex. Sess., No. 83-131, p. 137, § 1.)

§ 20-2-142. Legislative intent. *Current through End of 2007 Regular Session.*

It is the intent of the Legislature to remove the merchandising of the "imitation controlled substance" or "lookalike drug" from the street corners, school yards, and campuses of our state, not to interfere with the legitimate distribution of "over the counter" formulations used for the treatment of illness dispensed or sold by licensed practitioners.
(Acts 1982, No. 82-426, p. 670, § 6.)

§ 20-2-143. Manufacture, distribution, possession, or advertisement of imitation controlled substances prohibited; penalties; immunity of certain persons from liability. *Current through End of 2007 Regular Session.*

(a) *Manufacture or distribution.* It is unlawful for any person to manufacture, distribute, or possess with intent to distribute or sell an imitation controlled substance. Any person who violates this subsection shall be guilty of a Class A misdemeanor under Title 13A.

(b) *Distribution to a minor*. Any person 18 years of age or older who violates subsection (a) of this section by distributing or selling an imitation controlled substance to a person under 18 years of age shall be guilty of a Class C felony under Title 13A.

(c) *Possession.* It is unlawful for any person to use or possess with intent to use, an imitation controlled substance. Any person who violates this subsection shall be guilty of a Class C misdemeanor under Title 13A.

(d) *Advertisement.* It is unlawful for any person to place in any newspaper, magazine, handbill or other publication, or to post or distribute in any public place, any advertisement or solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution or sale of an imitation controlled substance. Any person who violates this subsection shall be guilty of a Class B misdemeanor under Title 13A.

(e) *Immunity*. No civil or criminal liability shall be imposed by virtue of this article on any person registered under Chapter 2 of this title who manufactures, distributes, or possesses a placebo, or investigational new drug in the course of professional practice or research.
(Acts 1982, No. 82-426, p. 670, § 3.)

§ 20-2-144. Exceptions. *Current through End of 2007 Regular Session.*

Nothing in this article shall apply to a noncontrolled substance that was initially introduced into commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate.
(Acts 1982, No. 82-426, p. 670, § 7.)

ARTICLE 8. SOLICITATION, ATTEMPT, AND CONSPIRACY TO COMMIT CONTROLLED SUBSTANCE CRIME.

§§ 20-2-160 through 20-2-164. Transferred to §§ 13A-12-201 through 13A-12-205 by Acts 1988, 1st Ex. Sess., No. 88-918, p. 512, § 2, effective September 30, 1988. *Current through End of 2007 Regular Session.*

§§ 20-2-160 through 20-2-164. Transferred to §§ 13A-12-201 through 13A-12-205 by Acts 1988, 1st Ex. Sess., No. 88-918, p. 512, § 2, effective September 30, 1988. *Current through End of 2007 Regular Session.*

ARTICLE 9. PRECURSOR CHEMICALS.

§ 20-2-180. Definitions. *Current through End of 2007 Regular Session.*

As used in this article and unless otherwise specified, the following terms are defined as follows:

(1) Board or Board of Pharmacy. The Alabama State Board of Pharmacy.

(2) Listed precursor chemical. A chemical substance specifically designated as such by the Alabama State Board of Pharmacy, that, in addition to legitimate uses, is used in the unlawful manufacture of a controlled substance or controlled substances.

(3) Person. Any individual, corporation, partnership, association, or other entity which manufactures, sells, transfers, or possesses a listed precursor chemical.

(Acts 1991, No. 91-589, p. 1085, § 1; Act 2001-971, 3rd Sp. Sess., p. 873, § 2.)

§ 20-2-181. Board to designate by rule listed precursor chemicals; interim list established. *Current through End of 2007 Regular Session.*

(a) The Board of Pharmacy shall, within one year of July 29, 1991, designate by rule listed precursor chemicals.

(b) The Board of Pharmacy may subsequently by rule add chemicals as listed precursor chemicals following the criteria set forth in subdivision (2) of Section 20-2-180, and may also by rule delete any substance previously named as a listed precursor chemical. In no event shall a chemical also be designated as a listed precursor chemical if it has been determined to be a controlled substance or an immediate precursor chemical pursuant to the Alabama Uniform Controlled Substances Act, Section 20-2-1 et seq.

(c) If any chemical is designated or deleted as a listed precursor chemical under federal law and notice thereof is given to the Board of Pharmacy, the board shall similarly list or delete the substance under this article after the expiration of 30 days from publication in the federal register of a final rule or order designating or deleting such substance as a listed precursor chemical, unless, within 30 days from publication in the federal register of the final rule or order, the board objects to the designation or deletion. In that case, the board shall publish the reasons for objection in the Alabama Administrative Monthly and shall afford all interested parties an opportunity to submit written comments and to be heard. At the conclusion of the hearing and the comment period, the State Board of Pharmacy shall publish its decision, which shall be final unless altered by statute. Upon publication of an objection

to the designation or deletion by the board, the designation or deletion is stayed until the board publishes its decision. Notwithstanding the provisions of the Alabama Administrative Procedure Act, Sections 41-22-1 through 41-22-27, no further rulemaking or administrative proceedings shall be required of the board with respect to the designation or deletion of substances similarly designated or deleted under federal law.

(d) Until the Board of Pharmacy adopts a rule designating listed precursor chemicals, as required by subsection (a), the following chemicals or substances are hereby deemed listed precursor chemicals:

(1) Acetic anhydride;
(2) Anthranilic acid and its salts;
(3) Benzyl cyanide;
(4) Ephedrine, its salts, optical isomers, and salts of optical isomers;
(5) Ergonovine and its salts;
(6) Ergotamine and its salts;
(7) Hydriodic acid;
(8) Isosafrol;
(9) Methylamine;
(10) N-Acetylanthranilic acid and its salts;
(11) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers;
(12) Phenylacetic acid and its salts;
(13) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers;
(14) Piperidine and its salts;
(15) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers;
(16) Safrole; and
(17) 3,4-Methylenedioxyphenyl-2-propanone.

(Acts 1991, No. 91-589, p. 1085, § 2.)

§ 20-2-182. License required for furnishing listed precursor chemical; licensing procedure; content of license; record of transactions. *Current through End of 2007 Regular Session.*

(a) A manufacturer, wholesaler, retailer, or other person who sells, transfers, manufactures, purchases for resale, or otherwise furnishes any listed precursor chemical defined in Section 20-2-181 must first obtain a license annually from the Board of Pharmacy.

(b) The procedure for obtaining a license to sell, transfer, manufacture, purchase for resale, or otherwise furnish a listed precursor chemical shall be as follows:

(1) Obtain an application from the Board of Pharmacy;
(2) Submit the application to the Board of Pharmacy;
(3) Demonstrate a legitimate reason to sell, transfer, or otherwise furnish listed precursor chemicals.

(c) The content of the application for a license shall include, but not be limited to, the following information:

(1) Name of business;
(2) Address of business other than a post office box number;
(3) Phone number of business;
(4) Names and addresses of business owners;
(5) Location of storage facility;
(6) Identification of listed precursor chemicals to be sold; and
(7) Criminal history of applicant.

(d) A licensee shall make an accurate and legible record of any transaction of listed precursor chemicals and maintain such record together with the following records for a period of at least two years:

(1) Inventory on hand;
(2) Purchase receipts;
(3) Manufacturing records including the date and quantity of any listed precursor chemicals manufactured, the quantity of listed precursor chemicals used in manufacturing any other substance or product, and the inventory on hand of listed precursor chemicals after the manufacturing of any other substance or product;
(4) Copies of the Board of Pharmacy licenses or permits;
(5) Records of substance disposal.

(Acts 1991, No. 91-589, p. 1085, § 3.)

§ 20-2-183. Permit for possession; requirements to receive permit; copies. *Current through End of 2007 Regular Session.*

(a) Any person having a legitimate need for using a listed precursor chemical defined in Section 20-2-181, shall apply in person to the Board of Pharmacy for a permit to possess such chemical each time said chemical is obtained.

(b) The following must be submitted in person to the Board of Pharmacy to receive a permit for possession of listed precursor chemicals:

(1) A driver's license number or other personal identification certificate number, date of birth, residential or mailing address, other than a post office box number, and a driver's license or personal identification card issued by the Department of Public Safety which contains a photograph of the recipient;

(2) In the event the applicant is a corporation, the information in this section shall be required of the person making application for the permit. In addition, the person making application for the permit on behalf of a corporation shall disclose his relationship to the corporation;

(3) The make, model, model year, state where licensed, and license number of the motor vehicle owned and operated by the recipient;

(4) The serial number of the permit issued in the name of the recipient by the Board of Pharmacy pursuant to this section, which shall be obtained from personal observation of the permit;

(5) A complete description of how the chemical is to be used; and

(6) The location where the chemical is to be stored and used.

(c) The permit shall consist of three parts, including:

(1) The original to be retained by the Board of Pharmacy;

(2) A copy to be retained by the manufacturer, wholesaler, retailer, or other person furnishing listed precursor chemicals; and

(3) A copy to be attached to the container of the listed precursor chemical and to be kept with the chemicals at all times.

(Acts 1991, No. 91-589, p. 1085, § 4.)

§ 20-2-184. Denial, suspension, or revocation of license. *Current through End of 2007 Regular Session.*

A license or permit, obtained pursuant to Section 20-2-182 or 20-2-183, shall be denied, suspended, or revoked by the Board of Pharmacy upon finding that the license or permit holder has:

(1) Furnished false or fraudulent material information in any application filed under this article;

(2) Been convicted of a crime under any state or federal law relating to any controlled substance;

(3) Had his federal registration suspended or revoked to manufacture, distribute or dispense controlled substances;

(4) Violated the provisions of Chapter 23 of Title 34; or

(5) Failed to maintain effective controls against the diversion of said precursors to unauthorized persons or entities.

(Acts 1991, No. 91-589, p. 1085, § 5.)

§ 20-2-185. Reporting transactions -- Board to supply form. *Current through End of 2007 Regular Session.*

(a) Any person who sells, transfers, purchases for resale, or otherwise furnishes to a person in this state a listed precursor chemical shall submit a report of the transaction on a form obtained from the Board of Pharmacy that includes the information required by Section 20-2-183.

(b) The Board of Pharmacy shall supply, upon the request of any manufacturer, wholesaler, retailer, or other person who sells, transfers, purchases for resale, or otherwise furnishes a listed precursor chemical a form for the submission of:

(1) The report required by subsection (a);

(2) The name and measured amount of the listed precursor chemical delivered;

(3) Such other information as the board may require pursuant to agency rule of the Board of Pharmacy.

(Acts 1991, No. 91-589, p. 1085, § 6.)

§ 20-2-186. Procedure upon discovery of loss or theft of chemicals -- Records -- Audits and inspections of records. *Current through End of 2007 Regular Session.*

(a) Any person, licensed or permitted, who discovers a loss or theft of, or disposes of a chemical listed in Section 20-2-181 shall:

(1) Submit a report of the loss, theft, or disposal to the Board of Pharmacy no later than the third business day after the date the manufacturer, wholesaler, retailer, or other person discovers the loss or theft, or after the actual disposal; and

(2) Include the amount of loss, theft, or disposal in the report. Any disposal of listed precursor chemicals must be done in accordance with the rules and regulations of the United States Environmental Protection Administration and shall be performed at the expense of the permit or license holder.

(b) A manufacturer, wholesaler, retailer, or other person who sells, transfers, possesses, uses, or otherwise furnishes any listed precursor chemical shall:

(1) Maintain records as specified in Section 20-2-182, or as prescribed by the rule of the Board of Pharmacy;

(2) Permit law enforcement authorities to conduct on-site audits, inspections or inventories, and inspect all records made in accordance with this article at any reasonable time; and

(3) Cooperate with the audit, inspection or inventory, or copying of any records.

(Acts 1991, No. 91-589, p. 1085, § 7.)

§ 20-2-187. Adoption of rules; administrative fees authorized. *Current through End of 2007 Regular Session.*

The Board of Pharmacy may adopt reasonable rules to effectuate the provisions of this article. The board is further authorized to charge reasonable fees to defray expenses incurred in issuing any licenses or permits or maintaining any records or forms required by this article and in the administration of the provisions of this article. Any fees to defray expenses as set forth above or in administering the provisions of this article shall be retained by the Board of Pharmacy.

(Acts 1991, No. 91-589, p. 1085, § 8.)

§ 20-2-188. Exceptions to requirements for sale or transfer of chemicals, and to licensing requirements.

Current through End of 2007 Regular Session.

(a) The provisions of this article shall not apply to the sale or transfer of products which include a listed precursor chemical if the product may be sold lawfully with a prescription or over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.), or under a rule adopted pursuant to that act.

(b) Notwithstanding any other provision of this article, no person shall be required to obtain a listed precursor license or permit for the sale, receipt, transfer, manufacture, or possession of a listed precursor chemical when:

(1) Such person is a duly licensed physician, dentist, veterinarian, podiatrist, or pharmacist, when the sale, receipt, transfer, manufacture, or possession of such listed precursor chemical is a transaction otherwise lawfully authorized;

(2) A domestic lawful distribution in the usual course of business between agents or employees of a single regulated person;

(3) A delivery of a listed precursor chemical to or by a common or contract carrier for carriage in the lawful and usual course of the business of the common or contract carrier or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman.

(Acts 1991, No. 91-589, p. 1085, § 9.)

§ 20-2-189. Property rights in chemicals forfeited upon violation. *Current through End of 2007 Regular Session.*

All listed precursor chemicals as defined in Section 20-2-181, which have been, or which are intended to be sold, transferred, manufactured, purchased for resale, possessed or otherwise transferred in violation of a provision of this article shall be subject to forfeiture to the state and no property right shall exist in them.

(Acts 1991, No. 91-589, p. 1085, § 10.)

§ 20-2-190. Penalties; sale of ephedrine, etc.; Alabama Methamphetamine Abuse Task Force. *Current through End of 2007 Regular Session.*

(a) Any person who manufactures, sells, transfers, receives, or possesses a listed precursor chemical violates this article if the person:

(1) Knowingly fails to comply with the reporting requirements of this article;

(2) Knowingly makes a false statement in a report or record required by this article or the rules adopted thereunder;

(3) Is required by this article to have a listed precursor chemical license or permit, and is a person as defined by this article, and knowingly or deliberately fails to obtain such a license or permit. An offense under this subsection shall constitute a Class C felony.

(b) Notwithstanding the provisions of Section 20-2-188, a person who possesses, sells, transfers, or otherwise furnishes a listed precursor chemical or a product containing a precursor chemical commits an offense if the person possesses, sells, transfers, or furnishes the substance with the knowledge or intent that the substance will be used in the unlawful manufacture of a controlled substance. An offense under this subsection shall constitute a Class B felony.

(c)(1)a. Products whose sole active ingredient is ephedrine or pseudoephedrine in strength of 30 mg. or more per tablet cannot be offered for retail sale loose in bottles, but must be sold only in blister packages.

On or after October 1, 2009, no product containing ephedrine or pseudoephedrine shall be sold in this state unless the product is manufactured in such a manner that the ephedrine or pseudoephedrine cannot be extracted so as to be used as an ingredient in the production of methamphetamine.

b. All packages of tablets containing ephedrine or pseudoephedrine as the sole active ingredient shall be stored by retail establishments by:

1. Placing the products behind a counter where the public is not permitted; or

2. Placing the products in a locked display case so that a customer wanting access to the packages must ask a store employee for assistance.

c. All packages of tablets containing ephedrine or pseudoephedrine and other active ingredients shall be stored by retail establishments by:

1. Placing the products behind a counter;

2. Placing the products under video surveillance and retaining the data for 30 days; or

3. Placing the products in a locked display case so that a customer wanting access to the package must ask a store employee for assistance.

(2) No person shall deliver in any single over-the-counter sale more than two packages, or any number of packages that contain a combined total of more than six grams of any product containing ephedrine or pseudoephedrine as the sole active ingredient, or in combination with other active ingredients. A purchase of more than six grams of such a product by an individual within a 30-day period with intent to manufacture shall be unlawful.

(3) Each pharmacy or retail establishment selling an over-the-counter product in compliance with paragraph b. of subdivision (1) shall require the purchaser of the product or products to be at least 18 years of age, to provide photographic identification of himself or herself, and to sign a special electronic or paper register which shall be maintained as a record of such a sale for inspection by any law enforcement officer or inspector of the Board of Pharmacy during normal business hours. In lieu of providing a photo identification, the purchaser may provide any two of the following forms of identification of himself or herself: A credit card, insurance card, Medicaid or Medicare card, or other government-issued identification card. A copy of the special register shall be maintained by the retail establishment for a minimum of 180 days. Any retailer maintaining the special register in accordance with this subdivision shall not be civilly liable as a result of any act or omission in carrying out the duties required by this subsection and shall be immune from liability to any third party unless the retailer has violated any provision of this subsection in relation to a claim brought for such violation. Any excessive or suspicious sales of such a product by any wholesaler, manufacturer, or repackager as defined in Section 34-23-1 shall be reported to the Board of Pharmacy.

(4) This subsection does not apply to the following:

a. Pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instructions.

b. Products that the Alabama State Board of Pharmacy, upon application of a manufacturer, exempts because the product is formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors.

c. Products dispensed pursuant to a legitimate prescription.

d. Any compound, mixture, or preparation which is in liquid, liquid capsule, or gel capsule form if ephedrine or pseduoephedrine is not the only active ingredient.

(5) This subsection shall preempt all local ordinances or regulations governing the possession by individuals or sale by a retail distributor of over-the-counter products containing ephedrine or pseudoephedrine.

(6) A retailer who is the general owner or operator of an establishment where ephedrine or pseudoephedrine products are available for sale shall not be penalized pursuant to this section for conduct of an employee if the retailer documents that an employee training program was conducted by or approved by the Alabama Methamphetamine Abuse Task Force pursuant to subsection (g).

(7) A violation of paragraph a. or b. of subdivision (1) or subdivision (2) of this subsection shall constitute a Class C misdemeanor on a first offense and a Class C felony on subsequent offenses. The violations shall be punishable as provided by law.

(d) Beginning October 1, 2005, any wholesaler, manufacturer, or repackager of drug products as defined in Section 34-23-1, other than a wholesaler, manufacturer, or repackager licensed by the Board of Pharmacy, shall obtain a registration annually from the Alcoholic Beverage Control Board which may promulgate and implement administrative rules for the registrations. Any wholesaler, manufacturer, or repackager shall keep complete records of all sales and transactions involving a listed precursor chemical or a product containing a precursor chemical including the names of all parties involved in the transaction and amount of the precursor chemical or product involved. The records shall be maintained for at least 12 months and the records shall be available for inspection by any law enforcement officer or inspector of the Board of Pharmacy during normal business hours.

(e) Beginning October 1, 2005, every retailer of ephedrine or pseudoephedrine, or a product containing ephedrine or pseudoephedrine, other than a retailer licensed by the Board of Pharmacy, is required to be registered with the Alcoholic Beverage Control Board to lawfully sell ephedrine or pseudoephedrine products to consumers. A retailer that requests a waiver of registration stating it will sell only ephedrine or pseudoephedrine products listed in paragraphs a., b., or d. of subdivision (4) of subsection (c), shall be exempt from registration.

(f) In addition to any other penalty that may be provided, a sale of ephedrine or pseudoephedrine by a wholesaler, manufacturer, repackager, or retailer without a license as required by subsection (d) or (e) is a Class A misdemeanor. In addition to any other penalty that may be provided, a sale of ephedrine or pseudoephedrine in violation of this section by a wholesaler, manufacturer, repackager, or retailer who is licensed as required by subsection (d) or (e) shall result in cancellation of the required registration and forfeiture of the right to sell the products for at least one year or longer as determined by the Alcoholic Beverage Control Board.

(g)(1) The Alabama Methamphetamine Abuse Task Force is created to develop education and training programs that will curb the abuse of methamphetamine precursors used to make methamphetamine, and curb the use of methamphetamine in the State of Alabama. The task force shall consist of the following:

a. The Attorney General, or his or her designee.

b. The President of the Alabama State Board of Pharmacy, or his or her designee.

c. A representative of the Senate as appointed by the President Pro Tempore of the Senate.

d. A representative of the House of Representatives as appointed by the Speaker of the House of Representatives.

e. The Director of the Alcoholic Beverage Control Board, or his or her designee.

(2) The representative of the Alcoholic Beverage Control Board shall serve as chair.

(3) The membership of the task force shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. The board shall annually report to the Legislature by the second legislative day to what extent the board is complying with this diversity provision.

(4) The chair of the task force shall be responsible for the conduct of the meetings and any correspondence derived therefrom.

(5) The task force shall develop training and education programs targeted for employees of establishments where ephedrine or pseudoephedrine products are available for sale and the programs shall be administered by the Alcoholic Beverage Control Board in conjunction with its program to restrict access to tobacco products by minors pursuant to Chapter 11, Title 28. The task force may avail itself of any advisory information as needed to develop the training and information programs. The chair of the task force shall call an organizational meeting of the task force within 30 days of July 1, 2005, and the task force shall report its meeting schedule and procedural rules to the Clerk of the House of Representatives and the Secretary of the Senate within 10 days of

the meeting. The task force shall collect data related to the effectiveness of its training and education programs and shall submit a report to the Secretary of the Senate and Clerk of the House no later than December 31 of each year.

(6) The task force may expend any funds from any source, including, but not limited to, donations, grants, and appropriations of public funds received for purposes of this subsection.

(Acts 1991, No. 91-589, p. 1085, § 11; Act 2004-564, p. 1323, § 1; Act 2005-181, p. 365, § 1.)

ARTICLE 10. CONTROLLED SUBSTANCES PRESCRIPTION DATABASE.

§ 20-2-210. Legislative findings. *Current through End of 2007 Regular Session.*

The Alabama Legislature hereby finds that the diversion, abuse, and misuse of prescription medications classified as controlled substances under the Alabama Uniform Controlled Substances Act constitutes a serious threat to the health and welfare of the citizens of the State of Alabama. The Legislature further finds that establishment of a controlled substances prescription database to monitor the prescribing and dispensing of controlled substances will materially assist state regulators and practitioners authorized to prescribe and dispense controlled substances in the prevention of diversion, abuse, and misuse of controlled substances prescription medication through the provision of education and information, early intervention, and prevention of diversion, and investigation and enforcement of existing laws governing the use of controlled substances.

(Act 2004-443, p. 781, § 1.)

§ 20-2-211. Definitions. *Current through End of 2007 Regular Session.*

For the purposes of this article, the following terms shall have the respective meanings ascribed by this section:

(1) Certifying boards. Those boards designated in subdivision (3) of Section 20-2-2.

(2) Controlled substance. Any drug or medication defined as a controlled substance within the meaning of subdivision (4) of Section 20-2-2.

(3) Department. The Alabama Department of Public Health.

(4) Licensing board or commission. The board, commission, or other entity that is authorized to issue a professional license to a pharmacist or an authorized practitioner.

(5) Pharmacy. A retail establishment, as defined in subdivision (18) of Section 34-23-1, licensed by the Alabama State Board of Pharmacy.

(6) Practitioner or Authorized practitioner. A medical, dental, podiatric, optometric, or veterinary medical practitioner licensed to practice in this state and authorized to prescribe, dispense, or furnish controlled substances under the Alabama Uniform Controlled Substances Act.

(7) State health officer. The executive officer of the Alabama Department of Public Health as designated in Section 22-2-8.

(Act 2004-443, p. 781, § 2.)

§ 20-2-212. Controlled substances prescription database program; powers and duties of department; trust fund. *Current through End of 2007 Regular Session.*

The department is hereby authorized to establish, create, and maintain a controlled substances prescription database program. In order to carry out its responsibilities under this article, the department is hereby granted the following powers and authority:

(1) To adopt regulations, in accordance with the Alabama Administrative Procedure Act, governing the establishment and operation of a controlled substances prescription database program.

(2) To receive and to expend for the purposes stated in this article funds in the form of grants, donations, federal matching funds, interagency transfers, and appropriated funds designated for the development, implementation, operation, and maintenance of the controlled substances prescription database. The funds received pursuant to this subdivision shall be deposited in a new fund that is hereby established as a separate special revolving trust fund in the State Treasury to be known as the Alabama State Controlled Substance

Database Trust Fund. No monies shall be withdrawn or expended from the fund for any purpose unless the monies have been appropriated by the Legislature and allocated pursuant to this article. Any monies appropriated shall be budgeted and allocated pursuant to the Budget Management Act in accordance with Article 4 (commencing with Section 41-4-80) of Chapter 4 of Title 41, and only in the amounts provided by the Legislature in the general appropriations act or other appropriations act.

(3) To enter into one or more contracts with the State Board of Pharmacy for the performance of designated operational functions for the controlled substances prescription database, including, but not limited to, the receipt, collection, input, and transmission of controlled substances prescription data and such other operational functions as the department may elect.

(4) To create a controlled substances prescription database advisory committee. The mission of the advisory committee is to consult with and advise the State Health Officer on matters related to the establishment, maintenance, and operation of the database, access to the database information, how access is to be regulated, and security of information contained in the database. The committee shall consist of one representative designated by each of the following organizations:

a. The Medical Association of the State of Alabama.
b. The Alabama Dental Association.
c. The Alabama Pharmacy Association.
d. The Alabama Veterinary Medicine Association.
e. The State Health Officer, or his or her designee.
f. The Alabama Hospital Association.
g. The Executive Director of the Alabama State Board of Pharmacy.
h. The Executive Director of the Board of Medical Examiners.
i. The Alabama Optometric Association.
j. One representative from each of the certifying boards established under the Alabama Uniform Controlled Substances Act.
k. The Alabama Independent Drug Store Association.
l. The Alabama Podiatry Association.

(Act 2004-443, p. 781, § 3.)

§ 20-2-213. Reporting requirements. *Current through End of 2007 Regular Session.*

(a) Each of the entities designated in subsection (b) shall report to the department, or to an entity designated by the department, controlled substances prescription information as designated by regulation pertaining to all Class II, Class III, Class IV, and Class V controlled substances in such manner as may be prescribed by the department by regulation.

(b) The following entities or practitioners are subject to the reporting requirements of subsection (a):

(1) Licensed pharmacies, not including pharmacies of general and specialized hospitals, nursing homes, and any other health care facilities which provide inpatient care, so long as the controlled substance is administered and used by a patient on the premises of the facility.

(2) Mail order pharmacies or pharmacy benefit programs filling prescriptions for or dispensing controlled substances to residents of this state.

(3) Licensed physicians, dentists, podiatrists, optometrists, or veterinarians who dispense Class II, Class III, Class IV, and Class V controlled substances directly to patients, or in the case of veterinarians, for administration to animals, but excluding sample medications. For the purposes of this article, sample medications are defined as those drugs labeled as a sample, not for resale under the laws and regulations of the Federal Food and Drug Administration. Controlled substances administered to patients by injection, topical application, suppository administration, or oral administration during the course of treatment are excluded from the reporting requirement.

(c) The manner of reporting controlled substance prescription information shall be in such manner and format as designated in the regulations of the department.

(d) The following data elements shall be used in transmitting controlled substance prescription information:

(1) Name or other identifying designation of the prescribing practitioner.

(2) Date prescription was filled or medications dispensed.

(3) Name of person and full address for whom the prescription was written or to whom the medications were dispensed.

(4) National Drug Code (NDC) of controlled substance dispensed.

(5) Quantity of controlled substance dispensed.

(6) Name or other identifying designation of dispensing pharmacy or practitioner.

(7) Other data elements consistent with standards established by the American Society for Automation in Pharmacy as may be designated by regulations adopted by the department.

(e) In addition to any other applicable law or regulation, the failure of a licensed pharmacy or pharmacist or a licensed practitioner to comply with the requirements of this section shall constitute grounds for disciplinary action against the license of the pharmacy, pharmacist, or licensed practitioner by the appropriate licensing board or commission, and the imposition of such penalties as the licensing board or commission may prescribe. The department shall report to the appropriate licensing board, agency, or commission the failure of a licensed pharmacist or a licensed practitioner to comply with the reporting requirements of this section. Any report made by the department to a licensing board, agency, or commission shall be deemed a formal complaint and shall be investigated and appropriate action taken thereon.
(Act 2004-443, p. 781, § 4.)

§ 20-2-214. Limited access to database permitted for certain persons or entities. *Current through End of 2007 Regular Session.*

The following persons or entities shall be permitted access to the information in the controlled substances database, subject to the limitations indicated below:

(1) Authorized representatives of the certifying boards, provided, however, that access shall be limited to inquiries concerning the licensees of the certifying board.

(2) A licensed practitioner approved by the department who has authority to prescribe, dispense, or administer controlled substances, provided, however, that such access shall be limited to information concerning a current or prospective patient of the practitioner. Practitioners shall have no requirement or obligation to access or check the information in the controlled substances database prior to prescribing, dispensing, or administering medications or as part of their professional practice.

(3) A licensed pharmacist approved by the department, provided, however, that such access is limited to information related to the patient or prescribing practitioner designated on a controlled substance prescription that a pharmacist has been asked to fill. Pharmacists shall have no requirement or obligation to access or check the information in the controlled substances database prior to dispensing or administering medications or as part of their professional practices.

(4) State and local law enforcement authorities as authorized under Section 20-2-91, and federal law enforcement authorities authorized to access prescription information upon application to the department accompanied by an affidavit stating probable cause for the use of the requested information.

(5) Employees of the department and consultants engaged by the department for operational and review purposes.
(Act 2004-443, p. 781, § 5.)

§ 20-2-215. Confidentiality of database. *Current through End of 2007 Regular Session.*

(a) The controlled substances database and all information contained therein and any records maintained by the department or by any entity contracting with the department which is submitted to, maintained, or stored as a part of the controlled substances prescription database is hereby declared privileged and confidential, is not a public record, is not subject to subpoena or discovery in civil proceedings and may only be used for investigatory or evidentiary purposes related to violations of state or federal law and regulatory activities of licensing or regulatory boards of practitioners authorized to prescribe or dispense controlled substances.

(b) Nothing in this section shall apply to records created or maintained in the regular course of business of a pharmacy, medical, dental, optometric, or veterinary practitioner, or other entity covered by this article and all information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any civil proceedings merely because such information contained in those records was reported to the controlled substances prescription database in accordance with the provisions of this article.
(Act 2004-443, p. 781, § 6.)

§ 20-2-216. Unauthorized disclosure of information; unauthorized access, alteration, or destruction of

information. *Current through End of 2007 Regular Session.*

Any person who intentionally makes an unauthorized disclosure of information contained in the controlled substances prescription database shall be guilty of a Class A misdemeanor. Any person or entity who intentionally obtains unauthorized access to or who alters or destroys information contained in the controlled substances prescription database shall be guilty of a Class C felony.
(Act 2004-443, p. 781, § 7.)

§ 20-2-217. Surcharge on controlled substance registration certificate for maintenance, etc., of database.

Current through End of 2007 Regular Session.

There is hereby assessed a surcharge in the amount of ten dollars ($10) per year on the controlled substance registration certificate of each licensed medical, dental, podiatric, optometric, and veterinary medicine practitioner authorized to prescribe or dispense controlled substances. This surcharge shall be effective for every certificate issued or renewed on or after August 1, 2004, shall be in addition to any other fees collected by the certifying boards, and shall be collected by each of the certifying boards and remitted to the department at such times and in such manner as designated in the regulations of the department. The proceeds of the surcharge assessed herein shall be used exclusively for the development, implementation, operation, and maintenance of the controlled substances prescription database.

At the end of the first fiscal year after the controlled substances database becomes operational, and at the end of each succeeding fiscal year thereafter, the State Health Officer shall determine the actual operating costs for the database, to include an allocation of costs for the services of employees of the department. If at the end of the fiscal year the State Health Officer determines that the funds received by the department for operation of the database exceed the operational costs incurred by at least twenty-five thousand dollars ($25,000), then the department shall refund a portion of such excess to the certifying boards which made payments to the department under this section in an amount proportional to the boards' payment, provided, however, that no payment of less that five thousand dollars ($5,000) to a certifying board shall be made.
(Act 2004-443, p. 781, § 8.)

§ 20-2-218. Reimbursement of certain costs incurred in compliance with article. *Current through End of 2007 Regular Session.*

The department is authorized to grant funds to participating pharmacies for the purpose of reimbursing reasonable costs for dedicated equipment and software incurred by pharmacies in complying with the reporting requirements of this article. Such grants shall be funded by gifts, grants, donations, or other funds appropriated for the operation of the controlled substances prescription database. The department is authorized to determine standards and specifications for any equipment and software purchased by the authority of this section.
(Act 2004-443, p. 781, § 9.)

§ 20-2-219. Financing of development, operation, etc., of database. *Current through End of 2007 Regular Session.*

The controlled substances prescription database shall become operational within 12 months after the State Health Officer certifies to the certifying boards in writing that the department has sufficient funds to finance the development, implementation, and operation of the database.
(Act 2004-443, p. 781, § 10.)

§ 20-2-220. Liability for reporting. *Current through End of 2007 Regular Session.*

Any person or entity required to report information concerning controlled substance prescriptions to the department, or to its designated agent, pursuant to the requirements of this article shall not be liable to any person for any claim of damages as a result of the act of reporting the information and no lawsuit may be predicated thereon.

(Act 2004-443, p. 781, § 11.)

[redacted]

TITLE 34. PROFESSIONS AND BUSINESSES.

CHAPTER 38. IMPAIRED PROFESSIONALS' COMMITTEE.

§ 34-38-1. Definitions. *Current through End of 2007 Regular Session.*

For the purposes of this chapter, the following terms shall have the meaning respectively ascribed to them by this section, unless the context clearly provides for another:

(1) Dentist. Any person who is a dentist or dental practitioner pursuant to the definition of Section 6-5-481, as amended.

(2) Pharmacist. Any person who is a pharmacist as defined in Section 34-23-1, as amended, and pharmacy externs and interns registered by the Board of Pharmacy under Rule 680-X-2-.16 of the Alabama Administrative Code.

(3) Boards. Individually and/or jointly: The Board of Dental Examiners and the Board of Pharmacy.

(4) Committee. The Alabama Impaired Professionals' Committee.

(5) Hygienist. Any person who is a hygienist pursuant to the provisions of Sections 34-9-26 and 34-9-27.

(Acts 1988, No. 88-334, p. 505, § 1; Acts 1989, No. 89-860, p. 1713, § 1.)

§ 34-38-2. Duty of Board of Dental Examiners and Board of Pharmacy to promote early treatment, etc., of individuals impaired by illness, inebriation, etc.; Alabama Impaired Professionals' Committee; expenses; competitive bidding not required. *Current through End of 2007 Regular Session.*

It shall be the duty and obligation of the State Board of Dental Examiners and the State Board of Pharmacy to promote the early identification, intervention, treatment and rehabilitation of individuals within the respective jurisdiction, licensed to practice in the State of Alabama, who may be impaired by reason of illness, inebriation, excessive use of drugs, narcotics, controlled substances, alcohol, chemicals or other dependent forming substances, or as a result of any physical or mental condition rendering such person unable to meet the standards of his or her profession. For the purposes of this chapter, the term "impaired" shall mean the inability of a dentist, hygienist or pharmacist to practice with reasonable skill and safety to patients by reason of illness, inebriation, excessive use of drugs, narcotics, controlled substances, alcohol, chemicals or other dependent forming substances, or as a result of any physical or mental condition rendering such person unable to meet the standards of his or her profession. In order to carry out this obligation, each board, individually or jointly, is hereby empowered to contract with any nonprofit corporation, health provider or professional association for the purpose of creating, supporting and maintaining a committee of professionals to be designated the Alabama Impaired Professionals' Committee. The committee shall consist of not less than three nor more than 15 professionals licensed to practice dentistry or pharmacy in the State of Alabama, and selected in a manner prescribed by the board or boards. The authority of the Alabama Impaired Professionals' Committee shall not supersede the authority of the board or boards to take disciplinary action against individuals subject to this chapter. Nothing in this chapter shall limit the power and authority of the board or boards to discipline an impaired individual subject to its jurisdiction; provided that where an individual is impaired and currently in need of intervention, treatment or rehabilitation and such individual is currently participating in programs or rehabilitation recommended by the committee, then in its discretion, the board or boards may refrain from taking or continuing disciplinary action against such individual; and further provided that where the board or boards, upon reasonable cause to believe an individual subject to its jurisdiction is impaired, has referred such individual to the committee for evaluation, then in its discretion, the board or boards may refrain from taking or continuing disciplinary action against such individual. The board, or boards, is authorized to expend such funds as are available to it as deemed necessary to adequately provide for the operational expenses of the Alabama Impaired Professionals' Committee, including, but not limited to, the actual cost of travel, office overhead and personnel expense and compensation for the members of the committee and its staff; provided that operational

expenses of the Alabama Impaired Professionals' Committee shall not include the cost of treatment or rehabilitation programs recommended by the committee to individuals subject to this chapter. The funds provided by the board or boards, under this section for the purposes stated herein shall not be subject to any provision of law requiring competitive bidding.
(Acts 1988, No. 88-334, p. 505, § 2; Acts 1989, No. 89-860, p. 1713, § 2.)

§ 34-38-3. Authority of board or boards to contract for Impaired Professionals' Committee to undertake certain functions. *Current through End of 2007 Regular Session.*

The board or boards shall have the authority to enter into an agreement with a nonprofit corporation, health provider or professional association for the Alabama Impaired Professionals' Committee to undertake those functions and responsibilities specified in the agreement. Such functions and responsibilities may include any or all of the following:

(1) Contracting with providers of treatment programs;
(2) Receiving and evaluating reports of suspected impairment from any source;
(3) Intervening in cases of verified impairment;
(4) Referring impaired professional to treatment programs;
(5) Monitoring the treatment and rehabilitation of impaired professional;
(6) Providing post-treatment monitoring and support of rehabilitated impaired professional; and
(7) Performing such other activities as agreed upon by the respective board or boards and the Alabama Impaired Professionals' Committee.

(Acts 1988, No. 88-334, p. 505, § 2.)

§ 34-38-4. Procedures for reporting impaired professional program activity and disclosure and joint review of information. *Current through End of 2007 Regular Session.*

The Alabama Impaired Professionals' Committee shall develop procedures in consultation with such board or boards for:

(1) Periodic reporting of statistical information regarding impaired professional program activity;
(2) Periodic disclosure and joint review of such information as the board or boards may deem appropriate regarding reports received, contracts or investigations made and the disposition of each report, provided, however, that the committee shall not disclose any personally identifiable information except as provided in Section 34-38-7.

(Acts 1988, No. 88-334, p. 505, § 2.)

§ 34-38-5. Nonliability of Impaired Professionals' Committee personnel, etc., for actions within scope of function. *Current through End of 2007 Regular Session.*

Any dentist licensed to practice in the State of Alabama, or pharmacist, who shall be duly appointed to serve as a member of the Alabama Impaired Professionals' Committee and any auxiliary personnel, consultants, attorneys, or other employees of the committee shall not be liable to any person for any claim for damages as a result of any decision, opinion, investigation or action taken by the committee or any individual member of the committee made by him within the scope of his function as a member of the committee if such decision, opinion, investigation or action was taken without malice and on a reasonable belief that such action or recommendation was warranted by the facts that were then available. No nonprofit corporation, professional association, health provider or state or county association that contracts with, or receives funds from, board or boards for the creation, support and operation of the Alabama Impaired Professionals' Committee shall be liable to any person for any claim for damages for any action taken or recommendation made by the Alabama Impaired Professionals' Committee, or any member thereof, or any auxiliary personnel, consultant, attorney, or employee of such committee.
(Acts 1988, No. 88-334, p. 505, § 2.)

§ 34-38-6. Confidentiality of information, records and proceedings. *Current through End of 2007 Regular Session.*

All information, interviews, reports, statements, memorandums, or other documents furnished to or produced by the Alabama Impaired Professionals' Committee and any findings, conclusions, recommendations or reports resulting from the investigations, interventions, treatment or rehabilitation, or other related proceedings of such committee are declared to be privileged and confidential. All records and proceedings of such committee shall be confidential and shall be used by such committee, the members thereof and the boards, only in the exercise of the proper functions of the committee and the boards, and shall not be public records nor available for court subpoena or for discovery proceedings. Nothing contained herein shall apply to records made in the regular course of business of an individual; documents or records otherwise available from original sources are not to be construed as immune from discovery or use in any civil proceedings merely because they were presented or considered during the proceedings of the Alabama Impaired Professionals' Committee.
(Acts 1988, No. 88-334, p. 505, § 2; Acts 1989, No. 89-860, p. 1713, § 3.)

§ 34-38-7. Annual report. *Current through End of 2007 Regular Session.*

It shall be the duty of the Alabama Impaired Professionals' Committee to render an annual report to each board or boards, concerning the operations and proceedings of the committee for the preceding year. In addition, the committee shall promptly report to the respective boards any individual within their jurisdiction who, in the opinion of the committee is unable to practice the standards of his or her profession with reasonable skill and safety to patients, by reason of illness, inebriation, excessive use of drugs, controlled substances, narcotics, alcohol, chemicals or other dependency forming substances, or as a result of any physical or mental condition rendering such person unable to meet the standards of his or her profession and appears that such individual is currently in need of intervention, treatment or rehabilitation. A report to the Alabama Impaired Professionals' Committee shall be deemed to be a report to the board or boards for the purposes of any mandated reporting of professional impairment otherwise provided for by the statutes of this state.
(Acts 1988, No. 88-334, p. 505, § 2; Acts 1989, No. 89-860, p. 1713, § 4.)

§ 34-38-8. Evaluation of professional who is believed to be impaired; report of findings. *Current through End of 2007 Regular Session.*

If the board or boards has reasonable cause to believe that a professional is impaired, such board may cause an evaluation of such professional to be conducted by the Alabama Impaired Professionals' Committee, for the purpose of determining if there is an impairment. The Alabama Impaired Professionals' Committee shall report the findings of its evaluation to the respective board or boards.
(Acts 1988, No. 88-334, p. 505, § 2.)

Alabama Schools of Pharmacy Examination Statistics

as reported by the National Association of Boards of Pharmacy

TOTAL CANDIDATE GROUP	**2004 Totals MPJE/ NAPLEX**		**2005 Totals MPJE/ NAPLEX**		**2006 Totals MPJE/ NAPLEX**		**2007 Totals MPJE/ NAPLEX**	
Number of Candidates (school):								
Auburn University	130	63	162	95	185	118	186	121
Samford University	160	129	163	126	199	129	205	121
Number of Candidates (national):	15,213	10,789	15,946	11,172	17,158	12,372	18,070	12,771
School Average:								
Auburn University	81.41	107.91	81.45	105.03	81.27	102.76	82.45	99.86
Samford University	78.96	96.28	80.11	100.60	80.63	109.36	82.38	113.36
State Average:	79.59	96.68	80.08	101.66	80.70	110.99	82.07	110.42
National Average:	79.97	95.33	80.22	94.63	80.55	95.70	81.20	99.14
School Passing Rate:								
Auburn University	95.38	100.00	94.04	95.58	94.62	89.05	96.95	71.62
Samford University	85.79	91.23	92.68	84.93	90.50	89.21	93.19	93.91
State Passing Rate:	88.52	84.56	86.52	90.80	89.53	94.77	92.83	92.02
National Passing Rate:	85.19	87.71	86.13	81.25	87.54	78.80	89.58	81.54

FIRST-TIME CANDIDATE GROUP	**2004 Totals MPJE/ NAPLEX**		**2005 Totals MPJE/ NAPLEX**		**2006 Totals MPJE/ NAPLEX**		**2007 Totals MPJE/ NAPLEX**	
Number of Candidates (school):								
Auburn University	124	62	155	89	178	109	178	114
Samford University	138	113	151	113	184	111	197	113
Number of Candidates (national):	13,212	8,289	13,982	8,297	15,217	9,034	16,343	9,848
School Average:								
Auburn University	81.41	108.01	81.36	106.14	81.24	107.82	82.56	86.12
Samford University	79.07	99.83	80.22	103.70	80.76	101.77	82.53	112.21
State Average:	79.61	99.90	80.16	105.23	80.97	111.68	82.30	109.14
National Average:	80.42	100.29	80.62	100.80	80.95	102.49	81.62	106.78
School Passing Rate:								
Auburn University	95.16	100.00	93.79	98.35	94.42	89.33	96.78	85.25
Samford University	87.27	92.93	92.85	89.81	91.30	98.50	93.99	93.47
State Passing Rate:	88.79	84.31	87.39	92.40	90.75	94.00	93.50	92.27
National Passing Rate:	87.52	94.89	88.01	88.76	89.38	86.78	91.34	89.81

Board Members

HERB BOBO, R.Ph.
Secretary

10 Inverness Center Parkway
Suite 110
Birmingham, Alabama 35242

(205) 981-2280
Fax (205) 981-2330

www.albop.com

ALABAMA
BOARD OF PHARMACY

ALABAMA STATE BOARD OF PHARMACY
BOARD MEMBERS
Effective January 1, 2008

February 7, 2008

BOARD MEMBERS		TERM EXPIRES
ROLAND NELSON, R.Ph. **1859 Lakeridge Road** **Birmingham, Alabama 35216** **Elected 1-1-2004**	**Birmingham**	**December 2008**
TAMMY ROGERS, R.Ph. **P. O. Box 592** **Lillian, Alabama 36549** **Appointed 1-1-2005**	**Lillian**	**December 2009**
MIKE MIKELL, R. Ph. **3920 Chapman Road** **Millbrook, Alabama 36054** **Appointed 1-1-2006**	**Millbrook**	**December 2010**
Dr. ROBERT NELSON, PharmD **1110 Anna Drive** **Tuscumbia, Alabama 35674** **Appointed 1-1-2007**	**Tuscumbia**	**December 2011**

DONNIE R. CALHOUN **Anniston** **December 2012**
3771 Choccolocco Road
Anniston, Alabama 36207
Appointed 1-1-2008

Sincerely,

Herb Bobo, R.Ph.
Secretary

/me

RESPONSE TO SIGNIFICANT ITEMS

July 17, 2008

John E. Norris, Director/Operational Division
State of Alabama-Department of Examiners
Of Public Accounts
P. O. Box 302251
Montgomery, Alabama 36130-2251

Dear Mr. Norris:

As per the instructions of your letter of July 3, 2008, please find attached the Alabama Board of Pharmacy's responses to the items from your report to the Sunset Committee. We are sending via e-mail to john.Norris@examiners.alabama.gov and by USPS.

If more information is needed or you require further clarification, please contact this office.

Sincerely,

FOR THE ALABAMA STATE BOARD OF PHARMACY:

Herb Bobo

Herb Bobo, R.Ph.
Secretary

Attachments:

1. **Internal control policies and procedures are not adequate to provide assurance that data, programs, systems, and related information will be protected from unauthorized use, disclosure, modification, damage, loss or other inappropriate access by persons or programs.**

Board's response - As a result of the recent audit, the Board office, prior to the receipt of the findings on July 8, 2008 contacted our database administrator, New Tech Solutions and changed the procedures for access to computerized records. New Tech created random pass codes for each user and users must regularly change pass codes to gain access to the system. Pass codes will not be shared.

2. **A review of the board's resolution of complaints revealed some weaknesses in the records.**

Board's response - Before the current audit began the Board committed to a new paperless system to capture inspections, cases, and complaints that will satisfy the deficiencies noted in this finding. During the audit the vendors built the paperless inspection system and it is currently being implemented. The paperless case file and complaint system will be implemented later this year.

3. **The property manager does not conduct a full and complete property inventory at least annually, as required by law.**

Board's response - The leases on the copy machines noted in this finding have since expired and the machines returned. The currently leased machine is on the property list. This was an oversight. Effective immediately, the property manager will conduct an annual inventory and submit the results each year on October 1 to the Property Inventory Control Division.

4. **A review of legal services provided by three private attorneys revealed that the board did not submit the contracts for these services to the contract Review Permanent Legislative Oversight committee as required by state law and did not obtain Deputy Attorney General appointments for the attorneys, as required by the Attorney General, or obtain the governor's approval to contract the attorneys at a higher rate than the standard $85/hour, as required by the state's Attorney General.**

Board's response - Contracts for the outside legal services provided to the Board is currently being redone for the fiscal year beginning October 1, 2008 and proper procedures will be used. The Hearings that the Board conducts in order to protect the residents of Alabama require specialized legal services. The Board's attorney and law judge are uniquely qualified and competent to oppose the legal counsel of respondents that come before the Board. These opposing attorneys often come from the corporate offices of large multi-national companies and bring their own expert outside counsel along with local counsel. This experience and expertise should properly be compensated and the Board will seek rates above $85 that will be competitive based on the market value of the services needed.

5. A review of the contract between the Board of Pharmacy (Committee on Rehabilitating Impaired Pharmacists) and the University of Alabama Birmingham, (UAB) for the period examined revealed that monthly payments made to UAB by the board were sometimes less than or more than the terms stipulated.

Board's response - The Committee on Rehabilitating Impaired Pharmacists (CORIP) and the University of Alabama Birmingham (UAB) provide evaluation and services to the Board of a confidential nature. The Board replenishes a bank account used by CORIP for this purpose. The budgeted amounts for the two-year period in total were not exceeded. It is the position of the Board that funds not be transferred to the account without need and also the position of the Board that no services will be denied for pharmacists or technicians referred through the program. The CORIP program accounts for fewer than 2.5% of the Board's budget, a tremendous value to the Board and service to the public to identify impaired professionals and monitor them for alcohol and drug use. If requested by the Sunset Committee, the Board will alter the process for funding the account that pays for the program.

6. Votes to enter executive session at board meetings were not individually recorded in the minutes, as required by the state's Open Meetings Act.

Board's response - The minutes in question simply stated "ALL AYES" when the votes were unanimous which seems to indicate that each individual actually said "AYE". If it is the will of the Committee that additional language be used to say the same thing, the Board will gladly comply.

7. The board's $100 fee for assistant pharmacist original registration is in excess of the $50 maximum fee set by statute. In addition, the fees charged by the board for both original and renewal of registration for assistant pharmacists has not been incorporated into the board's administrative rules, as required by the state's Administrative Procedure Act. Without an administrative rule setting the fees, the board has no authority to charge them.

Board's response - Assistant Pharmacists were licensed as a result of lawsuits filed in 1969, which ordered the Board to issue them. This was a one-time occurrence to satisfy those who had gained the right to practice by training under another pharmacist instead of graduating from an accredited College of Pharmacy and passing a national board exam. Once again, this procedure is not in the rules because it was an action that occurred to comply with a court order and has not been done since then. In the opinion of the Board, anyone practicing pharmacy should pay the same fee to get to do the same things. The Board asks for grace so it can let the three remaining souls hold on to the licenses.

8. **The board's biennial schedule for license renewal is in conflict with a provision for license renewal found in state's Controlled Substances Act.**

Board's response - In 2004 Code of Alabama 1975, §34-23-30 and §34-23-52 were amended to allow biennial renewals of pharmacy permits and pharmacist licenses respectively. In 2005, Code of Alabama 1975, §34-23-50 was amended by the addition of paragraph (b). The Board believed this amendment allowed biennial renewal of controlled substances registration due to the language:

> *'(b) Nothwithstanding Section 20-2-51 or any other law to the contrary, each person licensed by the board to practice pharmacy may distribute or dispense controlled substances during the biennial prior for which the person is licensed.'*

If the Committee does not agree, the Board respectfully requests the Committee to provide suitable language in the continuation bill to allow biennial registration of controlled substance permits in the same format as now in place for pharmacists and pharmacies.

9. **SB411 sponsored by Senator Tom Butler in the 2008 Regular Session**

Board's response - The bill sponsored by Senator Butler in the Senate and Representative Guin in the House was offered in an attempt to pass enabling legislation that would permit the Board to adopt rules governing administrative deficiencies and minor offenses that generally take up time in Administrative Hearings, cause undue hardship on license, registration, and permit holders, and result in excessive costs for the Board. The Board Members and staff present will be glad to hear alternative solutions or answer questions about the intent of the bill.

10. **Responses to questionnaires from board licensed facilities show a disparity among different classes of facilities**

Board's response - The Board publishes a Newsletter, which is sent to license holders and registrants. The Board, also, posts changes on an outstanding website that is available to the public. The Board offers free law reviews yearly and sends representatives to every state pharmacy association's annual meetings. People and places that hold licenses and permits are required to know the laws and rules.

STATUS OF PRIOR FINDINGS:

11. Prior Finding – Leave record discrepancies:

Board's response - The Board has created a new tracking tool for LEAVE RECORDS that not only does the math, it also captures the ending balances which will help to eliminate errors in transcription.

12. Prior Finding – Competitive selection process for professional services not followed:

Board's response - The Board is executing a bid process where appropriate and a request for proposals process where appropriate with at least three vendors participating at all times. Eight companies were given the opportunity to propose paperless and on-line solutions to various Board requests and four were offered the opportunity to be the database administrator. Contracts are in various stages of completion